Judge Strong 11.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~115~~ 212

THE STEAMSHIP COLUMBIA, HER TACKLE, ETC.—PAUL SPOFFORD ET AL., CLAIMANTS, APPELLANTS,

vs.

JAMES H. BUNTING.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED MARCH 27, 1869.

Affirm—

Strong. J.

SUPREME COURT OF THE UNITED STATES.

No. 445.

THE STEAMSHIP COLUMBIA, HER TACKLE, ETC.—PAUL SPOFFORD ET AL., CLAIMANTS, APPELLANTS,

vs.

JAMES H. BUNTING.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

INDEX.

	Original.	Print
Clerk's certificate	A	1
Libel	1	1
Stipulation for libellant's costs	5	2
Monition	7	3
Monition	9	4
Claim	11	5
Stipulation for respondents' costs	13	5
Bond to marshal	15	6
Order to marshal	17	7
Libel	19	7
Hearing of cause	23	9
Testimony of John T. Kelso	25	9
Testimony of Hugh Hutchinson	37	14
Testimony of S. G. Chadsey	49	19
Testimony of Edmund B. Seaman	67	27
Testimony of Mathias Clickner	70	29
Testimony of Henry Prichard	74	30
Testimony of William H. Green	75	31
Deposition of William Ashford	87	36
Certificates of wardens of port of New York	91	37
Certificates of wardens of port of New York	93	38
Deposition of Alexander Barr	95	38
Deposition of Robert Campbell	100	40
Deposition of Edward H. Taylor	105	42
Deposition of Peter Hammond	111	44

	Original.	Print.
Final decree in district court	117	46
Notice of appeal to United States circuit court	119	46
Bond on appeal to United States circuit court	121	47
Petition on appeal to United States circuit court	123	48
Hearing of cause in United States circuit court	127	49
Decree in United States circuit court with reference to commissioner	131	49
Commissioner's report	133	50
Final decree in United States circuit court	135	50
Petition of appeal to United States Supreme Court	137	51
Bond on appeal to United States Supreme Court	143	52
Citation on appeal to United States Supreme Court	145	53

A UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Kenneth G. White, clerk of the circuit court of the United States of America, for the southern district of New York, in the second circuit, do hereby certify that the foregoing pages, numbered from one to 146 inclusive, contain a true and complete transcript of the record and proceedings had in said court, in the case of James H. Bunting against the st'ship Columbia, her tackle, &c., as the same remain of record and on file in said office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this 24 day of M'ch., in the year of our Lord one thousand eight hundred and sixty-nine, and of the independence of the said United States the ninety-third.

[SEAL.] KENNETH G. WHITE, *Clerk.*

[5-ct. int. rev. stamp canceled.]

1 At a stated term of the district court of the United States of America, for the southern district of New York, held at the United States court-rooms, in the city of New York, on Thursday, the fourth day of April, in the year of our Lord one thousand eight hundred and sixty-seven:

Present, the Honorable Samuel R. Betts, district judge.

JAMES H. BUNTING
vs.
THE STEAMSHIP COLUMBIA, HER TACKLE, &c.

1860, Feb'y 4th.—The libellant files his libel against the steamship Columbia, her tackle, &c., in the words and figures following, to wit:

2

3 To the Honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York:

The libel of James H. Bunting, owner of the propeller Jersey Blue, against the steamer Columbia, her engine, tackle, &c., respectfully shows—

First. That this is an action founded upon tort—collision, civil, maritime; said vessel, the Columbia, is now in this district.

Second. That the said steamship Columbia is a vessel licensed under the laws of the United States, for the coasting business between New York and Charleston, and the said propeller was at the time in the prosecution of a voyage from a port in New Jersey to the port of New York.

Third. That the said propeller, at the several times hereinafter stated, was tight, staunch, strong, well & properly tackled, apparelled, manned, & provided for the business in which she was then engaged.

Fourth. That the said propeller being so manned, &c., on the 7th day of January, 1860, was on a voyage to the east side of the city of New York, & being in the North River, heading across, was run into and against by the steamer Columbia, he wheel of which vessel got into the propeller, &c., still continuing in motion, tore the side of the propeller & the timber & plank thereof to nearly & just abaft the fore-rigging of such propeller.

Fifth. That said collision was wholly the fault of the said steamer
4 Columbia & those on board thereof, in not keeping a look-out; in going at too great a rate of speed; in not having proper control of their vessel or keeping her under control; in not stopping, backing, or slowing the speed of the said steamer in time to avoid the collision; in not giving any signal or notice of which way she was going or what course they would take, & in not replying to the signals of the propeller. The Jersey Blue was not under headway [but under headway] but under sternway at the time the Columbia struck her.

Sixth. That the said libellant has been put to great expense in repairing said propeller, & the use [then] & detention thereof during the time of such repairs, as also by the permanent damage [damage] done to her, which amounts, as he alleges, to the sum of two thousand dollars.

Seventh. That all and singular the premises are true & within the jurisdiction of this court.

Wherefore the libellant prays for a process against the said vessel, and that the court would be pleased to pronounce for the claim aforesaid & costs, or for such relief as may be just.

JAS. H. BUNTING.

Sworn to before me this 1st day of Feb'y, 1860.
[NOTARY SEAL.] O. R. STEELE,
Notary Public.

5 District court of the United States for the southern district of New York.

Filed the 24" day of March, 1865.

Stipulation for libellant's costs entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court on the fourth day of February, in the year of our Lord one thousand eight hundred and sixty, by James H. Bunting, against the steamer Columbia, her tackle, &c., for the reasons and causes in the said libel mentioned, and praying that said vessel may be condemned and sold to pay the demands of said libellant; and the said libellant and Welcome R. Beebe, surety-parties hereto, hereby consenting and agreeing that in case of default or contumacy on the part of the libellant or his surety, execution may issue against their goods, chattels, and lands for the sum of two hundred & fifty dollars:

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is, bound in the sum of two hundred & fifty dollars, conditioned that the libellant above named shall appear and answer to the cause and to interrogatories, and shall pay all such costs as shall be awarded against him by this court, or, in case of appeal, by the appellate court.

JAMES H. BUNTING,
Pr W. R. BEEBE.
W. R. BEEBE.

Taken and acknowledged this 24" day of March, 1865, before me.
JOHN A. OSBORN,
U. S. Commissioner.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

W. R. Beebe, party to the above stipulation, being duly sworn, doth depose and say that he resides in the city of New York, and that he is worth the sum of five hundred dollars, over and above all his just debts and liabilities.

W. R. BEEBE.

Sworn to this 24" day of March, 1865, before me.

JOHN A. OSBORN,
U. S. Commissioner.

Recorded the 24" day of March, 1865.

G. F. BETTS, *Clerk.*

6

7 SOUTHERN DISTRICT OF NEW YORK, *ss:*

The President of the United States of America to the marshal of the southern district of New York, greeting:

Whereas a libel hath been filed in the district court of the United States for the southern district of New York, on the fourth day of February, in the year of our Lord one thousand eight hundred and sixty, by James H. Bunting, against the steamer Columbia, her engine, &c., (collision 2,000^{00}) for the reasons and causes in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said steamer or vessel, her tackle, &c., may be cited, in general and special, to answer the premises, and all proceedings being had, that the said steamer or vessel, her tackle, &c., may, for the causes in the said libel mentioned, be condemned and sold to pay the demands of the libellant:

You are therefore hereby commanded to attach the said steamer or vessel, her tackle, &c., and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel, that they be and appear before the said court, to be held in and for the southern district of New York, on the eleventh day of April next, at eleven o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall have done in the premises, do you then and there make return thereof, together with this writ.

Witness the Honorable Samuel R. Betts, judge of said court, at the city of New York, in the southern district of New York, this 24th day of March, in the year of our Lord one thousand eight hundred and sixty-five and of our independence the eighty-ninth.

GEO. F. BETTS, *Clerk.*

BEEBE, DEAN & DONOHUE,
Proctor for Libellant.

8 (Indorsed:) Vol. 16, page 18. Southern district of New York, United States district court. James H. Bunting vs. the steamer Columbia, her engine, &c. Monition ret'ble April 11th, 1865. Beebe, Dean & Donohue, proctor for libellant.

Filed April 11", 1865.

I hereby depute to execute within process.
Dated , 18 .

R. MURRAY, *U. S. Marshal.*

E 109.
Not found.

R. MURRAY, *U. S. Marshal.*

9 SOUTHERN DISTRICT OF NEW YORK, *ss:*

The President of the United States of America to the marshal of the southern district of New York, greeting:

Whereas a libel hath been filed in the district court of the United States for the southern district of New York, on the fourth day of February, in the year of our Lord one thousand eight hundred and sixty, by James H. Bunting, against the steamer Columbia, her engine, tackle, &c., collision $2,000^{00}$, for the reasons and causes in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said steamer or vessel, her tackle, &c., may be cited in general and special to answer the premises, and all proceedings being had, that the said steamer or vessel, her tackle, &c., may, for the causes in the said libel mentioned, be condemned and sold to pay the demands of the libellant:

You are therefore hereby commanded, as we have before commanded you, to attach the said steamer or vessel, her tackle, &c., and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel, that they be and appear before the said court, to be held in and for the southern district of New York, on the tenth day of October, 1865, at eleven o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness the Honorable Samuel R. Betts, judge of the said court, at the city of New York, in the southern district of New York, this twenty-third day of September, in the year of our Lord one thousand eight hundred and sixty-five, and of our independence the ninetieth.

GEO. F. BETTS, *Clerk.*

BEEBE, DEAN & DONOHUE,
Proctors for Libellant.

10 (Indorsed:) Vol. 16, page 18. Southern district of New York, United States district court. James H. Bunting vs. the steamer Columbia, her engine, &c. Alias monition ret'ble Oct. 10th, 1865. Beebe, Dean & Donohue, proctor for libellant.
Filed the 10 day of Oct., 1865.

I hereby depute L. Bates to execute the within process.
Dated Sep. 23, 1865.

R. MURRAY, *U. S. Marshal.*

E 133.

In obedience to the within monition, I attached the st'r "Columbia, therein described, on the 23d day of September, 1865, and have not given due notice to all persons claiming the same that this court will, on the 10th

day of October, inst., (if that day shall be a day of jurisdiction, if not, on the next day of jurisdiction thereafter,) proceed to the trial and condemnation thereof, should no claim be interposed for the same.

U. S. Marshal.

Dated , 186 .

11 At a stated term of the district court of the United States of America, for the southern district of New York, held at the United States court-rooms, in the city of New York, on Tuesday, the 26th day of September, in the year of our Lord one thousand eight hundred and sixty-five:

Present, the Honorable Samuel R. Betts, district judge.

THE STEAMSHIP COLUMBIA
asm.
JAMES H. BUNTING.

And now, Paul Spofford, survivor, & others, owners of the steamer Columbia, intervening for the interest of themselves in the said vessel, appears before the honorable court and makes claim to the said vessel, &c., as the same are attached by the marshal, under process of this court, at the instance of James H. Bunting; and the said Paul Spofford & others aver that they were in possession of the said vessel at the time of the attachment thereof, and that the persons above named are true and bona-fide owner of the said vessel, and that no other person is the owner thereof; wherefore they pray to defend accordingly.

PAUL N. SPOFFORD, *Agent.*

Sworn to and subscribed this 26th day of Sept., A. D. 1865, before me,
JOHN A. OSBORN,
U. S. Commissioner.

BENEDICT, BURR & BENEDICT,
Proctors for Claimant.

12 (Indorsed:) Vol. 16, No. 18. United States district court, for the southern district of New-York, the st'r Columbia asm. James H. Bunting. Benedict, Burr & Benedict, proctors for claimants. Claim of owners.

Filed the 26th day of Sept., 1865.

13 District court of the United States, for the southern district of New-York.

Filed the 26th day of Sept., 1865.

Stipulation entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court, on the 4th day of February, in the year of our Lord one thousand eight hundred and sixty, by James H. Bunting against the st'r Columbia, &c., for the reasons and causes in the said libel mentioned, and praying that said steamer, her tackle, &c., may be condemned and sold to pay the demands of libellant; and the parties hereto hereby consenting that in case of default or contumacy on the part of the claimants, or their surety, execution for the sum of two hundred & fifty dollars may issue against their goods, chattels, and lands;

And whereas, also, a claim has been filed in said cause by Paul Spofford & others;

I hereby depute to execute within process.
Dated , 18 .

R. MURRAY, *U. S. Marshal.*

E 109.
Not found.

R. MURRAY, *U. S. Marshal.*

9 SOUTHERN DISTRICT OF NEW YORK, *ss:*

The President of the United States of America to the marshal of the southern district of New York, greeting:

Whereas a libel hath been filed in the district court of the United States for the southern district of New York, on the fourth day of February, in the year of our Lord one thousand eight hundred and sixty, by James H. Bunting, against the steamer Columbia, her engine, tackle, &c., collision $2,000^{00}$, for the reasons and causes in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said steamer or vessel, her tackle, &c., may be cited in general and special to answer the premises, and all proceedings being had, that the said steamer or vessel, her tackle, &c., may, for the causes in the said libel mentioned, be condemned and sold to pay the demands of the libellant:

You are therefore hereby commanded, as we have before commanded you, to attach the said steamer or vessel, her tackle, &c., and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel, that they be and appear before the said court, to be held in and for the southern district of New York, on the tenth day of October, 1865, at eleven o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness the Honorable Samuel R. Betts, judge of the said court, at the city of New York, in the southern district of New York, this twenty-third day of September, in the year of our Lord one thousand eight hundred and sixty-five, and of our independence the ninetieth.

GEO. F. BETTS, *Clerk.*

BEEBE, DEAN & DONOHUE,
Proctors for Libellant.

10 (Indorsed:) Vol. 16, page 18. Southern district of New York, United States district court. James H. Bunting vs. the steamer Columbia, her engine, &c. Alias monition ret'ble Oct. 10th, 1865. Beebe, Dean & Donohue, proctor for libellant.
Filed the 10 day of Oct., 1865.

I hereby depute L. Bates to execute the within process.
Dated Sep. 23, 1865.

R. MURRAY, *U. S. Marshal.*

E 133.

In obedience to the within monition, I attached the st'r "Columbia," therein described, on the 23d day of September, 1865, and have not given due notice to all persons claiming the same that this court will, on the

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U. S.

Dated , 186 .

11 At a stated term of the district court of the United
America, for the southern district of New York, held at
United States court-rooms, in the city of New York, on
the 26th day of September, in the year of our Lord one tho
hundred and sixty-five:

Present, the Honorable Samuel R. Betts, district judge.

THE STEAMSHIP COLUMBIA }
asm.
JAMES H. BUNTING. }

And now, Paul Spofford, survivor, & others, owners o
Columbia, intervening for the interest of themselves in th
appears before the honorable court and makes claim to t
&c., as the same are attached by the marshal, under proc
at the instance of James H. Bunting; and the said P
others aver that they were in possession of the said vess
of the attachment thereof, and that the persons above
true and bona-fide owner of the said vessel, and that no oth
the owner thereof; wherefore they pray to defend accordingly

PAUL N. SPOFFORD,

Sworn to and subscribed this 26th day of Sept., A. D. 1865, be
JOHN A. OSBORN,
U. S. Commiss

BENEDICT, BURR & BENEDICT,
Proctors for Claimant.

12 (Indorsed:) Vol. 16, No. 18. United States district co
the southern district of New-York, the st'r Columbia as
H. Bunting. Benedict, Burr & Benedict, proctors for claimants
of owners.
Filed the 26th day of Sept., 1865.

13 District court of the United States, for the southern d
New-York.

Filed the 26th day of Sept., 1865.

Stipulation entered into pursuant to the rules and practice of t

Whereas a libel was filed in this court, on the 4th day of F
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the said libel mentioned, and praying that said steamer, her
may be condemned and sold to pay the demands of libella
[illegible] stipulating that in case of default o
[illegible], or their surety, execution fo
[illegible] may issue against their goods,

[illegible] been filed in said cause by

I hereby depute to execute within process.
Dated ,18 .

R. MURRAY, *U. S. Marshal.*

E 109.
Not found.

R. MURRAY, *U. S. Marshal.*

9 SOUTHERN DISTRICT OF NEW YORK, *ss:*

The President of the United States of America to the marshal of the southern district of New York, greeting:

Whereas a libel hath been filed in the district court of the United States for the southern district of New York, on the fourth day of February, in the year of our Lord one thousand eight hundred and sixty, by James H. Bunting, against the steamer Columbia, her engine, tackle, &c., collision $2,000^{00}$, for the reasons and causes in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said steamer or vessel, her tackle, &c., may be cited in general and special to answer the premises, and all proceedings being had, that the said steamer or vessel, her tackle, &c., may, for the causes in the said libel mentioned, be condemned and sold to pay the demands of the libellant:

You are therefore hereby commanded, as we have before commanded you, to attach the said steamer or vessel, her tackle, &c., and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel, that they be and appear before the said court, to be held in and for the southern district of New York, on the tenth day of October, 1865, at eleven o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness the Honorable Samuel R. Betts, judge of the said court, at the city of New York, in the southern district of New York, this twenty-third day of September, in the year of our Lord one thousand eight hundred and sixty-five, and of our independence the ninetieth.

GEO. F. BETTS, *Clerk.*

BEEBE, DEAN & DONOHUE,
Proctors for Libellant.

10 (Indorsed:) Vol. 16, page 18. Southern district of New York, United States district court. James H. Bunting vs. the steamer Columbia, her engine, &c. Alias monition ret'ble Oct. 10th, 1865. Beebe, Dean & Donohue, proctor for libellant.
Filed the 10 day of Oct., 1865.

I hereby depute L. Bates to execute the within process.
Dated Sep. 23, 1865.

R. MURRAY, *U. S. Marshal.*

E 133.

In obedience to the within monition, I attached the st'r "Columbia, therein described, on the 23d day of September, 1865, and have not given due notice to all persons claiming the same that this court will, on the 10th

day of October, inst., (if that day shall be a day of jurisdiction, if not, on the next day of jurisdiction thereafter,) proceed to the trial and condemnation thereof, should no claim be interposed for the same.

U. S. Marshal.

Dated , 186 .

11 At a stated term of the district court of the United States of America, for the southern district of New York, held at the United States court-rooms, in the city of New York, on Tuesday, the 26th day of September, in the year of our Lord one thousand eight hundred and sixty-five:

Present, the Honorable Samuel R. Betts, district judge.

THE STEAMSHIP COLUMBIA
asm.
JAMES H. BUNTING.

And now, Paul Spofford, survivor, & others, owners of the steamer Columbia, intervening for the interest of themselves in the said vessel, appears before the honorable court and makes claim to the said vessel, &c., as the same are attached by the marshal, under process of this court, at the instance of James H. Bunting; and the said Paul Spofford & others aver that they were in possession of the said vessel at the time of the attachment thereof, and that the persons above named are true and bona-fide owner of the said vessel, and that no other person is the owner thereof; wherefore they pray to defend accordingly.

PAUL N. SPOFFORD, *Agent.*

Sworn to and subscribed this 26th day of Sept., A. D. 1865, before me,
JOHN A. OSBORN,
U. S. Commissioner.

BENEDICT, BURR & BENEDICT,
Proctors for Claimant.

12 (Indorsed:) Vol. 16, No. 18. United States district court, for the southern district of New-York, the st'r Columbia asm. James H. Bunting. Benedict, Burr & Benedict, proctors for claimants. Claim of owners.

Filed the 26th day of Sept., 1865.

13 District court of the United States, for the southern district of New-York.

Filed the 26th day of Sept., 1865.

Stipulation entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court, on the 4th day of February, in the year of our Lord one thousand eight hundred and sixty, by James H. Bunting against the st'r Columbia, &c., for the reasons and causes in the said libel mentioned, and praying that said steamer, her tackle, &c., may be condemned and sold to pay the demands of libellant; and the parties hereto hereby consenting that in case of default or contumacy on the part of the claimants, or their surety, execution for the sum of two hundred & fifty dollars may issue against their goods, chattels, and lands;

And whereas, also, a claim has been filed in said cause by Paul Spofford & others;

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is hereby, bound in the sum of two hundred & fifty dollars, conditioned that the claimants above named shall pay all costs and expenses which shall be awarded against them by the final decree of this court, or, upon an appeal, by the appellate court.

PAUL SPOFFORD, *Survivor*,
By PAUL N. SPOFFORD.
PAUL N. SPOFFORD.

Taken and acknowledged, this 26th day of Sept., 1865, before me.
JOHN A. OSBORN,
U. S. Commissioner.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Paul N. Spofford, party to the above stipulation, being duly sworn, doth depose and say, that he resides in the southern district of New York, & that he is worth the sum of five hundred dollars, over and above all his just debts and liabilities.

Sworn to, this 26th day of September, 1865, before me.
JOHN A. OSBORN,
U. S. Commissioner.

Recorded the 26th day of Sept'r, 1865.
G. F. B., *Clerk.*

14

15 *Bond to marshal.—Act of Congress March* 3, 1847.

District court of the United States of America for the southern district of New York.

Filed the 26th day of September, 1865.

Know all men by these presents, that we, Paul Spofford, survivor, &c., and Paul N. Spofford, are held and firmly bound unto Robert Murray, marshal of the United States for the southern district of New York, in the sum of four thousand dollars, to be paid to the said Robert Murray, for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the 26th day of September, in the year of our Lord one thousand eight hundred and sixty-five.

Whereas a libel has been filed in the district court of the United States for the southern district of New York, on the fourth day of February, in the year of our Lord one thousand eight hundred and sixty, by James H. Bunting, libellant, against the steamer Columbia, &c., for the sum of two thousand dollars, on which process of attachment has issued, and the said steamer, &c., is in custody of the marshal under the said attachment, and Paul Spofford & others has applied for a discharge of said steamer, &c., from the custody of the marshal, and has filed a claim claiming the said steamer, &c., as owner, and has filed a stipulation for the claimant's costs, pursuant to the rules and practice of the said court: Now, therefore, the condition of this obligation is such, that if the above

bounden Paul Spofford, survivor, &c., and Paul N. Spofford, shall abide by and perform the decree of this court, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

PAUL SPOFFORD, *Survivor*, [L. S.]
By PAUL N. SPOFFORD.
PAUL N. SPOFFORD. [L. S.]

Sealed and delivered, and taken and acknowledged, this 26" day of Sept'r, 1865, before me.

JOHN A. OSBORN,
U. S. Commissioner.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

Paul N. Spofford, being duly sworn, deposes and says that he resides in the southern district of New York, & that he is worth the sum of eight thousand dollars over and above all his just debts and liabilities.

Sworn to, this 26th day of September, A. D. 1865, before me.

JOHN A. OSBORN,
U. S. Commissioner.

I approve of the sufficiency of the sureties to the within bond. Dated this 26th day of Sept'r, 1865.

B., D. & D.

Recorded the 26th day of Sept'r, 1865.

16

17 At a stated term of the district court of the United States of America, for the southern district of New York, held at the city hall in the city of New York, on Tuesday, the 26th day of September, in the year of our Lord one thousand eight hundred and sixty-five:

Present, the Honorable Samuel R. Betts, district judge.

THE STEAMER COLUMBIA
asm.
JAMES H. BUNTING.

On filing claim and stipulation for claimant's costs, together with a bond under the act of Congress in double the amount claimed, approved by the district judge, on motion of Benedict, Burr & Benedict, proctors for the claimants, it is ordered that a copy of this order be delivered to the marshal.

18 (Indorsed:) Vol. 16, No. 18. United States district court for the southern district of New York. The s'tr Columbia, &c., asm. James H. Bunting. Benedict, Burr & Benedict, proctor for cl'm'ts. Order to marshal.

Filed the 26th day of Sept., 1865.

19 To the Honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York:

The libel and complaint of Paul Spofford, Thomas Tileston, Michael Berry, George S. Perry, J. Wintringham, Edward Dodge, Henry R. Worthington, John T. B. Maxwell, James Adger, Charles H. West, Wil-

liam Aiken, Robert Pringle, Oliver H. Middleton, R. S. Izzard, Edgerton & Richards, Joseph D. Aiken, C. L. Benkmyer, Henry Missroon, M. E. Carriere, James E. Legare, T. D. Wagner, R. W. Disher, Robert Chrisholm, J. Julian Chrisholm, and Henry Bischoff, owners of the steamer Columbia, against the propeller Jersey Blue, her engine, tackle, apparel, & furniture, in a cause of collision, civil and maritime, alleges as follows:

First. That at the times hereinafter mentioned the libellants were the owners of the steamer Columbia, a sea-going vessel, engaged in foreign navigation, and bound from New York on a voyage to Charleston, in the State of South Carolina.

Second. That on the afternoon of Saturday, the seventh day of January, 1860, it being their well-known time of sailing, the said steamer hauled out of her berth at pier 4 on the North River, in the port of New York, and having cleared the ice that was then running in fields,
20 extending to some six to eight hundred feet from the docks, was beginning to head down the bay, going slowly and having not yet got under full headway; that while so sailing the said steam-propeller Jersey Blue undertook to cross the river, coming from the Jersey side, and heading towards the steamer; that the course and position of the Columbia were plainly to be seen by the propeller if she had been keeping a proper look-out, & it was her duty to have passed under the stern of the Columbia, as she could easily have done with but little change of her course and no trouble, or to have stopped, instead of which she made no change whatever, and seeming to follow the Columbia, the Columbia was headed more to the eastward, and as she neared, the wheels of the Columbia were stopped, and while the Columbia was thus doing all in her power to avoid a collision, she, the Columbia, was struck violently by the propeller on her starboard side aft, in the wheel, a dangerous blow, her wheel and guards stove, and she so injured as to be disabled and unfit to proceed on her voyage.

Third. That at the time the tide was running ebb, the wind light from the southward and eastward, and there was nothing in the way of the propeller to prevent her avoiding the Columbia, as she could easily
21 have done, and was bound to do; that the Columbia could not have avoided the accident by stopping sooner than she did, nor by any other action than that taken by her, she doing at the time all in her power to avoid an accident, which was caused wholly by the gross neglect and want of care & of proper management and a proper look-out on board the said propeller.

Fourth. That by reason of the said accident the Columbia was obliged to postpone her trip and undergo repairs, and the libellants have sustained great loss and damage in the cost of said repairs and the detention of said steamer and loss of business, the exact amount of which cannot now be stated, but it will be near the sum of ten thousand dollars, for which they have and claim a lien upon said propeller, her tackle, &c.

Fifth. That all & singular the premises are true & within the jurisdiction of this honorable court.

Wherefore the libellants pray that process in due form of law may issue against the said propeller Jersey Blue, her engine, tackle, apparel, and furniture, and that all persons having any interest therein may be compelled to appear and answer upon oath all and singular the matters herein propounded, and that this honorable court would be pleased to condemn the said propeller to pay the libellant's claims with interest and costs, or decree to the libellants such other & further relief as they
22 may be entitled to receive.

T. TILESTON.

Sworn to before me this 10th day of January, 1860.
GEO. W. MORTON,
U. S. Com'r.

BENEDICT, BURR & BENEDICT, *Proctors.*
E. C. BENEDICT, *Advocate.*

(Endorsed:) 15,554. U. S. district court. In admiralty. Paul Spofford & al. vs. the steam-propeller Jersey Blue, &c. Libel. Benedict, Burr & Benedict, proctors for libellant.
Filed Jan'y 10, 1860.
☞Read on the trial as the answer in Bunting vs. Columbia.

23 At a stated term of the district court of the United States of America, for the southern district of New York, held at the United States court-rooms in the city of New York, on Friday, the 19th day of January, in the year of our Lord one thousand eight hundred and sixty-seven:

Present, the Honorable Samuel R. Betts, district judge.

PAUL SPOFFORD ET AL.
vs.
THE ST.-PROPELLER JERSEY BLUE, &C. } 15,554.

JAMES H. BUNTING
vs.
THE ST.-SHIP COLUMBIA, &C. } 16—18.

The above two suits being called in their order on the calandar, ordered that they be heard together.
Pleadings read.

Evidence for libellants in 1st suit & cl'm'ts in 2d:

Deposition of John T. Kelso.....read.
Hugh Hutchinson.....sworn.

Evidence for claimants in 1st & lib'ts in 2d:

Schuyler G. Chadrey.....sworn.
Edmund B. Seaman..... "
Charles H. Bramhall..... "
Matthias Clickner..... "
Henry Pritchard..... "
William H. Green..... "
Deposition of William Ashford.....read.

Evidence before the court closed, & cases to be submitted upon the evidence and further depositions which are to be taken by both parties.

24

25 U. S. district court.

PAUL SPOFFORD ET AL.
vs.
THE PROPELLER JERSEY BLUE.

JAS. H. BUNTING ET AL.
vs.
THE STEAMER COLUMBIA.

John T. Kelso, a witness on behalf of the libellants in the first above-entitled cause & the claimants in the second, says:

I am a pilot of the port, & have been so since 1827, man & boy. Have been pilot since 1832. I was pilot of the Columbia at the time of the collision with the Jersey Blue. Capt. Michael Berry was captain of her. He is dead. From the time the ship started, I was along side the pilot-house giving orders. She started from pier 4, North River, bound to Charleston. She started at 3 or 4 p. m. It was 3 p. m., I think. There was ice in the river, on the New York side; there was ice about two hundred yards out, I should think. The rest of the river was all clear. The Columbia lay the lower side of the pier. The tide was strong ebb at the time. In starting the vessel, went straight out till she struck the tide, & then her head turned down the river. As soon as her bow gets outside the end of the pier she strikes the tide. She
26 will have to get her length into the tide before she will mind her helm. I saw the Jersey Blue soon after we got out into the river. She was then coming from the direction of Jersey City. To the best of my knowledge, she was two-thirds across from the New York shore when I first saw her towards Jersey. Our vessel, when I first saw her, was heading about for Ellis & Gibbet Island, swinging all the time. Then the Columbia was steering. We had not got out of the ice; had not got out of it when the collision took place. Our port wheel was working in it at the time. When I saw the Jersey Blue first she was heading from Jersey City, about towards the Battery.

Q. Did you then anticipate any collision?

A. Not at that time.

Q. When did you first?

A. As she neared us she did not appear to change her course. When she came so close that I saw she was going to foul us, I put my helm to starboard, & swung the ship's head inside of Governor's Island, & hailed the Jersey Blue. I told them to stop and back.

Q. Was there any difficulty in their hearing your call?

A. I don't think there was; the wind was not strong, and I have a good strong voice.

Q. Did they stop and back?

27 A. As she was a propeller I could not see her engine; but I did not see that she stopped her way at all. At that time she was heading about for our starboard bow, at an acute angle. She was then, I should think, not more than 3 or 4 times our length from us. The Columbia is 230 feet long.

Q. Was there anything to prevent the Jersey Blue from going under your stern?

A. Nothing except broken ice. That a vessel can work through, the same as we had been doing. She did not change her course till she came into us. She came into our wheel—our starboard wheel. There was no hail from the Jersey Blue that I heard of. I stood outside the pilot-house till the blow. Nothing was said or done after the blow. We separated in an instant. At the time of the blow the Columbia was heading about for the middle of Governor's Island. We were at the time very near abreast of Castle Garden, a little below it, & about two hundred yards out in the river, about the same as the ice was.

Being cross-examined—

I am not attached to the Columbia. I am going out in the Moro Castle to Havana to-morrow, which belongs to the same line that the Columbia does.

Q. Did you make the trip in the Columbia on the trip in question?

A. I did.

Q. Were you attached to her at that time, and if so, how long?
28 A. From the time she was built, three or four years; can't say with certainty.
Q. Is the Columbia a side-wheel steamer?
A. Yes, sir.
Q. What was her ordinary rate of speed?
A. About twelve knots.
Q. How fast was she going at the time of the collision and before?
A. I should judge she was working through the ice four or five knots.
Q. How wide is the river at that point?
A. I should think from one mile & ¼ to a mile and ½.
Q. Did you form any judgment as to how fast the propeller was going at the time?
A. No, sir.
Q. Can you now tell me how fast the propeller was going?
A. Yes, sir; I should think from nine to ten knots.
Q. Can you give me the point of compass when you first saw her?
A. I cannot.
Q. Can you approximate to it?
A. No, sir, as we do not use a compass in the river.
Q. Did you see any difference of the speed from the time you first saw her to the time the vessels came together?
A. I did not; I saw no difference.
Q. Can you say there was no difference?
29 A. I cannot. I was standing on the starboard side of the pilot-house forward, so that I could see both sides. Captain Berry was on the paddle-box. When I first saw the Jersey Blue our vessel was 100 yards out from the end of the pier. At the time I first saw the Jersey Blue I cannot say what pier or place she was about opposite to. All that I can say is that she was coming from Jersey City. As I looked at her I saw her port side. Could not see her starboard side. I could not say how the Columbia was heading at the time I first saw the Jersey Blue. She was swinging. The river was clear of ice after getting out 200 yards from the pier. The first order that I gave to the man at the wheel was to starboard his wheel. I had then seen the Jersey Blue. I gave the order before I hailed the Jersey Blue. I gave the order before I thought there was to be a collision. I cannot recollect whether I gave more than one order to the man at the wheel before the collision. When I first saw the Jersey Blue I think she was ½ a mile from the Columbia. To the best of my knowledge, when I first saw the Jersey Blue she bore to the right of us, our starboard side towards her port side. I am under the impression she was above us at the time; I cannot swear she was above, the boats were angling
30 towards one another. I heard no whistle from the Jersey Blue. We gave her no whistle. We did not stop our speed. Captain Berry did not hail the Jersey Blue; I did myself. I will swear that Captain Berry did not hail. At the time I hailed the Jersey Blue she was about 6 or 700 feet off. She was at the time heading very near south-southeast; I cannot be certain as to the point of compass she was steering, as I took no bearings. I think, as near as I can say, at the time of the collision our vessel was heading south, and the Jersey Blue was heading—I cannot swear how she was heading at the time. The part of the Jersey Blue which came first in contact with the Columbia was about half between the beam & the bow on her port side. I did not see that our wheels ran upon her deck, but I was told our starboard wheel did. After we came together we stopped and she passed out ahead of us.

conclusion—as to where the Jersey Blue was bound to. She was a much smaller boat than ours. I formed no judgment how far her bulwarks were out of the water, & cannot tell now. Our bulwarks were much the higher out of the water than hers. Our guards were 10 to 12 feet out of the water—no, it could not be as much as that, say ten feet. It was a beautiful fine day. I know of no difficulty about our machinery that our boat could not be stopped. I made a memorandum of
31 the matter at the time. I think it was the same afternoon. I did it before the death of Mr. Tileston. It was the log-book. I wrote it up for the mate. We had two men at our wheel. The wind was at the time right from the westward.

Re-direct:

Q. How soon after leaving the dock did you order the wheel starboard?
A. As soon as we had got a length out.
Q. How long was it kept astarboard without changing?
A. It was kept astarboard till my head got round on my course, just to go clear of Governor's Island.
Q. What was done with it then?
A. It was steadied for a little while.
Q. What order was given then, if any?
A. Then I perceived the propeller coming close to us, & I ordered it astarboard again.
Q. Supposing at the time you hailed, your engine had been stopped, what would have been the result?
A. My opinion is that she would have come into us forward in a weaker place.
Q. Assuming that at the time of the collision you were heading south, how was the Jersey Blue heading?
A. Diagonally towards us; perhaps a couple of points farther east; I can't speak with any certainty. I did not see any one on the Jersey Blue when I hailed, in the hurried look I gave. After the blow I saw some people on her.
32 Q. Was there anything that you could have done more than you did to avoid this collision?
A. Not without stopping the boat awhile before, & letting her drift with the tide & ice wherever they would take her.
Q. Would that have been prudent?
(Obj. to.)
A. I think not.
Q. What, if anything, could the Jersey Blue have done to avoid it?
A. The whole space between the ice & Jersey City was clear water. She could have done anything she wanted to. There were no vessels at anchor off there, to the best of my recollection.

Re-cross:

There is a bell-pull at the paddle-box of the Columbia where the captain was standing. The captain commands the steamer, and his station was on the paddle-box. Captain Berry did on this occasion command the steamer, & I attend to the steering. The pilot-hous is about 30 feet from the stem, perhaps 40 feet. I did not change my position. The pilot-house is on the hurricane-deck, and about 30 feet above the water—no, about twenty-five feet, I should think. I could see the water on the starboard side of the vessel from where I was standing, about 30 feet from the vessel.

Q. How long was it from the time you saw the Jersey Blue to the time of the collision?

33 A. About twenty minutes. I dont think it could have been more—can say with certainty.

Re-direct:

At the time of the collision, had the Columbia got into the East-river tide, or was she still in the North-river tide?

A. She was still in the North-river tide. After the collision we came back to the dock.

JOHN T. KELSO.

Sworn to before me this 17th day of Jan'y, 1865.

JOEL B. ERHARDT,
Notary Public, 76 Wall st., N. Y.

(Endorsed:) U. S. district court. Paul Spofford et al. against the propeller Jersey Blue. Benedict, Burr & Benedict, att'ys, 76 Wall st., N. Y.

34

35 [Judge Beebe.]

U. S. dist. court.

No. 1.

PAUL SPOFFORD
vs.
THE ST.-PROP. "JERSEY BLUE."

No. 2.

JAMES H. BUNTING
vs.
THE STR. "COLUMBIA."

Before Hon. Justice Betts. Benedict, Burr & Benedict for libellant in No. 1 and claimant in No. 2. Beebe, Dean & Donohue for claimant in No. 1 and libellants in No. 2.

Index.

	Direct.	Cross.
Hugh Hutchinson		
Schuyler G. Chadsey		
Edmund B. Seaman		
Charles H. Bramhall		
Matthias Clickner		
Henry Pritchard		
Wm. H. Green		
Exhibits		

Warburton & Underhill, stenographers, 117 Nassau st.

36

37 The above suits being called in their order on the calendar, ordered on to be tried together.

The libel in No. 1 is taken as the answer in No. 2.
Mr. Benedict read the libel in suit No. 1.
Mr. Beebe read the answer; and also read the libel in suit No. 2.
Mr. Benedict read in evidence the deposition of John T. Kelso.

Hugh Hutchinson, called by libellant in No. 1, being duly sworn, was ex'd by Mr. Benedict.

Q. What is your business?
A. Engineer.
Q. How long have you been engineer?
A. About 14 years.
Q. On steamers?
A. Yes, sir.
Q. Were you engineer on the Columbia at the time of this collision?
A. I was.
Q. Do you recollect what time of day the Columbia started?
A. I think 3 o'clock in the afternoon—3 or 4 o'clock; I am not positive.
Q. Did you notice the river in reference to the ice?
A. Yes, sir; the river on the eastern side was well blocked with ice, perhaps from 150 to 180 yards.
38 Q. How was the ice?
A. Heavy ice.
Q. Which side of the pier did the Columbia lie at?
A. I cannot say positively; I think the northern side.
Q. Which pier?
A. No 4, North River.
Q. Were you at the engine yourself as she went out?
A. Sometimes I would be down in the engine-room, and the next half-minute on the door-sill.
Q. You did not stand at the engine?
A. No, sir.
Q. Who had charge of the engine?
A. Mr. Clarke, the first assistant.
Q. Where is he?
A. In Baltimore.
Q. Where was the captain standing?
A. That I do not know.
Q. Did you see the captain as you went up?
A. No, sir; he was on the hurricane deck.
Q. How did the vessel go out from the pier?
A. Head first, in a direct line, as near as I could judge.
Q. How far did she go out in a direct line?
A. I think she went out about 60 or 70 yards.
39 Q. About the length of the vessel?
A. Perhaps more. I should say more.
Q. Then what course was taken?
A. We worked the engine out by hand, first from the dock. I thought sometimes the engine would stop going over her centre, the ice was so heavy. After going out 60 or 70 yards we were drifting down stream. There was a heavy mass of ice and the current was taking the vessel down bodily; then the bell rang to hook on, and we hooked on; at the same time the vessel swung a little head down stream.
Q. Did you see the "Jersey Blue?"
A. Yes, sir.
Q. Where were you standing when you saw her?

A. I stood on the door-sill of the engine-room.
Q. On which side of your vessel?
A. On the starboard side.
Q. Where was the "Jersey Blue" when you saw her?
A. I cannot give the distance; but I should say she was 200 yards distant when I saw her.
Q. How was she heading?
A. I cannot say.
Q. I don't mean the points of the compass; but with refere course?
A. Heading obliquely on to our vessel; the Jersey I
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A. I stood there perhaps about two minutes, or perhaps not that. Then I recollect perfectly well coming down into the engine-room and telling Mr. Clarke to be careful that the engine did not stop on her centre with the heavy ice, and I came up on the door-sill again.
Q. Was she still coming towards you?
A. Yes, sir.
Q. How long did you stand there that time?
A. I do not think I stood there over 12 or 15 seconds; perhaps a little longer.
Q. Can you tell whether the Columbia was then heading down the river?
A. She may have been turning round; but she did not get headed down the river yet.
Q. Then you went down into the engine-room again?
A. I saw there was going to be a collision, or, at least, judged so, and I went down to the engine-room to aid Mr. Clarke in stopping the
41 engine.
Q. Did you get orders to stop?
A. The bell rang to stop.
Q. Did you stop at once?
A. Yes, sir.
Q. What rate of speed do you judge the Columbia was making through the ice?
A. I should think from 3 to 4 knots.
Q. Did you see the Jersey Blue after the time you stopped the engine?
A. Yes, sir; after the engine was stopped I ran up and looked over the side and saw the Jersey Blue.
Q. Where was she then?
A. It is hard for me to describe. I looked obliquely abaft the corner of the paddle-house as if looking in the direction of pier 9 or pier 8; we had not got quite turned round. It might have been pier 12. I looked over and could see her in that direction.
Q. How far off was she from you then?
A. I should say 60 or 80 yards.
Q. Did you stand and watch her then, or go down again?
A. No; I merely looked to see what the trouble was, and came down into the engine-room again.
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A. I should say 60 or 80 yards.
Q. Did you stand and watch her then, or go down again?
A. No; I merely looked to see what the trouble was, and came down into the engine-room again.
Q. After the collision the vessel came back to the dock?

A. Yes, sir.

Q. Where was she injured by the collision?

42 A. On the starboard wheel.

Q. Do you recollect whereabouts and how the wheel was injured?

A. Yes. We took 27 arms out of the wheel.

Q. How many arms in the whole wheel?

A. This is what is called a skeleton wheel—half long and half short arms. I think we took 14 long arms out, and 13 short ones.

Q. How many long & short arms in the whole wheel?

A. I think 42 long arms and 42 short. There might be 28. I would not be positive.

Cross-examined by Mr. Donohue:

Q. Has she got the same kind of wheel now that she had then?

A. Yes, sir; she is in port at present.

Q. As you came out of the dock you headed towards Jersey City?

A. Yes, sir.

Q. Was there anything to prevent your hooking on as you came out of the dock?

A. Nothing that I know of.

Q. When you went down to the engine-room the first time, she was heading out; you say when you started out you were on deck?

A. Yes, sir.

Q. When you went below, she was still heading out?

A. Yes, sir.

Q. And had got out about how far?

A. 60 or 70 yards.

43 Q. Had you seen the Jersey Blue at this time?

A. Not when I first went below; if I had looked I might, I suppose.

Q. From the position she afterwards occupied, you think if you looked you would have seen her the first time?

A. Yes, sir; I think so. If the Columbia was not turning I might have seen her.

Q. If the Columbia was going straight, and you looked the first time, you think you could have seen her?

A. If the Columbia was proceeding to the Jersey shore.

Q. And she would have been to your right-hand side then?

A. Yes, sir; she would have been to our right-hand side if the Columbia had not been swinging.

Q. You think, when you went down the first time, if the Columbia had been heading straight out and you looked, you would have seen the Jersey Blue on the right side?

A. Yes, sir.

Q. And bearing how?

A. I want to explain this. That during that time the Jersey Blue might have been going north & then turned round in the meantime, and if I looked afterwards I might have seen her.

Q. From the position she occupied when you first saw her, where do you suppose she would have borne if you looked the first time?

44 A. As if coming from Hoboken.

Q. And borne on your starboard side?

A. Yes, sir.

Q. You went below to do what?

A. I do not recollect.

Q. You do not recollect how long you staid?

A. I did not stay over a few seconds; perhaps over a qnarter of a minute.

Q. Had she hooked on up to that time?

A. That I can't positively say.

Q. Then you came on deck, and then you saw the Jersey Blue?

A. Yes; then I saw the Jersey Blue. We were hooked on then.

Q. When you came on deck you were hooked on?

A. Yes, sir.

Q. You saw the Jersey Blue?

A. Yes, sir.

Q. In plain sight?

A. Yes, sir.

Q. Coming from you?

A. Yes, sir.

Q. About 200 yards off?

A. It may not have been so far as that.

Q. Have you any idea how long you had been then hooked on?

A. We had been hooked on but a very short time.

Q. Can you say, as a matter of fact, whether you were swinging or not?

A. No, sir; I cannot say. I think we had swung down a little
45 from my looking over the quarter and seeing pier No. 10 or 8 or 12.

Q. What quarter did you look off to see pier 10 or 8?

A. From the starboard side, the quarter forward of the wheel. It might have been 14 or 20.

Q. Any way you could see the piers on the North River above you looking that way?

A. Yes, sir; we were drifting down with the current.

Q. And that continued to be so that you could see these piers looking over the starboard side forward of the wheel until the collision?

A. I was not on the deck up to the collision. When I came on deck afterwards I could see the piers.

Q. Looking over the starboard side forward of the wheel?

A. Yes, sir.

Q. You could see pier 10 that way?

A. Yes, sir; it might be farther up.

Q. About opposite what place was your vessel at the time the collision took place?

A. That I cannot say.

Q. Can you give us some idea? Had she got down as far as Castle Garden, or pier No. 1?

A. I cannot say.

Q. Could you form any idea from the pier above?

A. No, sir.

Q. Could you form any idea how far out you were?

A. I should think somewhere about 180 yards out from the wharf; perhaps 200.

46 Q. Had you got out of the ice?

A. We were just emerging from the ice, I should judge, before the collision. I saw there was going to be a collision and I ran down.

Q. At the time of the collision you think you were just emerging from the ice?

A. Yes, sir.

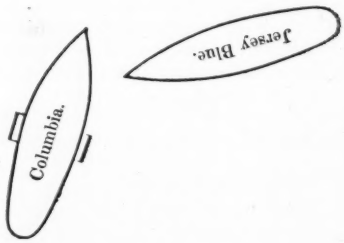
Q. When you first saw the Jersey Blue, were the vessels angling together?

A. Yes, sir.

Q. Put these two vessels in the position in which they were angling together.

(Witness makes drawing, marked No. 1, attached.)

No. 1.—Feb'y 5.

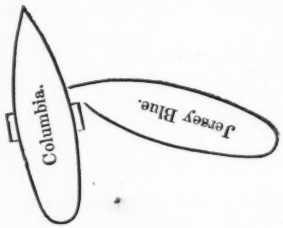


WITNESS. I do not mean the distance between them is shown by this; but that is the angle at which they were approaching when I first saw them.

Q. How was it when you last saw them?

A. They were about in this position, (making drawing No. 2.)

No. 2.



The angle was not so much; but they were very close to each other.

Q. No. 1 represents the angle at which they were when you first saw them?

A. Yes, sir.

Q. But does not represent the distance apart?

A. No, sir.

Q. These marks do not represent the respective size of the vessels at all?

47 A. No, sir.

Q. When you last saw them, the Jersey Blue was heading as in No. 2, for the projection on the Columbia which is marked her wheel?

A. Yes, sir; heading for the wheel.

Q. No. 2 represents, as near as you can get at it, the angle and position in which she was heading for the wheel when you last saw her?

A. The angle here might have been a little more obtuse for all I know.

Q. But that represents the character of the angle at which they were approaching each other?

A. Yes, sir.

Re-direct:

Q. I understood you to say before, that the last time you saw her you saw her aft of you?

A. That was after the collision.

Q. You say that the wheel rang to hook her on, because there was danger of her catching on the centre?

A. No, sir. After we proceed out from the dock a few yards; sometimes the engine is hooked on immediately, sometimes before we get clear of the dock; but we have to be very careful not to hook on the engine when the ice is heavy; because it might break the wheel. I was notified before going out to be careful, as we would experience difficulty in getting out.

Q. I understood you to say, as you were working out, you had to be very careful for fear of catching on the centre?

48 A. Yes, sir.

Q. That was while you were working by hand?

A. Yes, sir; it is very apt to catch on the centre, too, when it is hooked on, if the ice is very heavy.

Q. But it is more likely to catch on the centre when it is worked by hand than when hooked on?

A. Yes, sir.

Q. Suppose it catches on the centre in the ice, is it an immediate thing to get her off the centre again?

A. Sometimes she will get off herself, and sometimes we have to use a pry to pry her off the centre, one or two inches perhaps.

Q. Catching on the centre is a thing to be avoided in the navigation of vessels?

A. Decidedly. If possible, we avoid getting a vessel on the centre by all means.

Q. Is it an easier thing, or more difficult, to get her off the centre in the ice or in clear water?

A. Decidedly more difficult in the ice.

Q. When on the centre she cannot work?

A. No, sir.

Re-cross:

Q. She did not get on her centre this time?

A. No, sir.

Q. Neither working by hand or afterwards?

A. No, sir.

49 Mr. Beebe, on behalf of the claimants, calls Schuyler G. Chadsey, who being duly sworn, testifies:

Q. How old are you?

A. 45 years.

Q. Have you ever followed the water?

A. Yes; some.

Q. For how long?

A. 7 years.

Q. Did you know the propeller "Jersey Blue?"

A. Yes, sir.

Q. Were you ever in command of her?

A. Yes, sir.

Q. How long?

A. I cannot tell exactly how long; I was in command of her at the time of the collision.

Q. Have you been in command of her months or years?
A. For years.
Q. What time of the day did the collision take place?
A. In the afternoon; probably in the middle of the afternoon.
Q. What kind of weather?
A. Good weather; pleasant.
Q. Where was the Jersey Blue coming from, and to what place was she bound?
A. She was coming from the coal-docks, Jersey City, and bound to the East River.
Q. How was the tide at that time?
A. Ebb tide; ebb in both rivers.
50 Q. How was the wind?
A. I do not think there was any wind of any consequence. It was a very light wind; not enough to effect anything.
Q. The point you started from was the coal-docks, Jersey City?
A. Yes, sir.
Q. On what part of the vessel were you?
A. At the wheel, with the pilot.
Q. Who was your pilot?
A. William Ashford.
Q. Were you actually at the wheel?
A. In the wheel-house & hold of the wheel with him.
Q. How many men had you on board the Jersey Blue, all told?
A. I cannot say; some 8 or 9.
Q. Did you see the Columbia?
A. I did; I saw her first from the wheel-house.
Q. Had you then hold of the wheel?
A. Yes, sir.
Q. Where was your boat at the time you first saw the Columbia?
A. We were below pier No. 1, North River.
Q. And how far off in the river?
A. I think not more than 200 or 300 yards from the end of the pier, on a line with the end of the pier.
Q. Where was she then?
A. When I first saw the Columbia she had cleared the end of
51 the pier and was swinging towards us. I saw her over my left shoulder. I had to turn round to see her.
Q. How did that bring her?
A. To the stern of us, angling sideways.
Q. On which side?
A. On our port side.
Q. About how was your vessel heading at that time?
A. We were taking a direct course to the East River from the coal-docks; I cannot tell the point of the compass.
Q. Straight as you could steer?
A. Yes, sir; we steered so up to that time—straight as we could steer.
Q. At the time you saw her, was she clear from the pier?
A. Yes, sir; her stern, at the time I saw her, was just leaving the end of the pier.
Q. From that time did you lose sight of her?
A. I did not until after the collision.
Q. Which way did she head?
A. She headed a variety of ways. She was swinging rapidly at the time.
Q. Down the river?

A. Yes, sir; with her head down the river.
Q. What did you do?
A. I immediately gave one whistle.
Q. Was that a distinct whistle?
A. It was a distinct one; I pulled the whistle-rope myself.
Q. Was there any attention paid to that signal?
A. I did not hear any. They did not reply to it.
52 Q. What was that signal intended for?
A. One distinct whistle is for each vessel to pass to the right.
Q. For her to go under your stern?
A. Yes, sir; to pass to the right of one another.
Q. If you had sought to go under her stern, was it possible to have done it?
A. Then I would have blown two whistles.
Q. Could it have been done?
A. It could not have been done.
Q. If you had sought to go under her stern, would that have carried you out of your course?
A. We would have had to turn round and go back again to go under her stern.
Q. When you found no attention was paid to your signal, what did you do?
A. I blowed another one.
Q. What time elapsed between blowing the first and blowing the second?
A. I cannot say. I saw that unless she changed her course, if she continued swinging, we would be right together and have a collision. There was no alternative but to give another signal. Had she ported her wheel and gone on her course, she would have avoided us.
Q. Would there have been any difficulty in doing that?
A. No, sir.
Q. Would she have had the ice?
A. I do not know if there would be any; but she would have
53 got out of it quicker by going straight out.
Q. About what point did the collision take place in reference to the New York side?
A. The collision took place about off the Battery, inside the end of the piers.
Q. About opposite the Battery?
A. I think about opposite to Castle Garden.
Q. Inside the end of the range of the piers?
A. Yes, sir.
Q. Are you sure of that?
A. I am quite sure, because I took an observation of the piers at the time.
Q. And this collision took place inside the end of the piers?
A. I should say so, sir.
Q. You say you blew your whistle a second time?
A. Yes, sir.
Q. Was any attention paid to it?
A. No, sir; no reply.
Q. In the meantime how did the vessels draw together?
A. They were nearing together very fast; after they refused to reply to our first whistle we stopped our engine.
Q. Then you blew the second time?
A. Yes, sir.

Q. Did you receive any intimation from the Columbia at any time?

A. We received a hail from them.

54 Q. Did you know Captain Berry?

A. I knew him by sight.

Q. Did you see him on the Columbia?

A. He was on the paddle-box.

Q. From whom did the hail come?

A. I judge it came from Captain Berry by the voice; they were some way off at the time.

Q. What was the hail?

A. The hail was "We can't" or "we shant stop." I cannot tell which word, the word "can't" or "shant" was used.

Q. When the hail came from the Columbia your engine was stopped?

A. Yes, sir.

Q. Put the vessels in the way they bore to each other when the hail came from the Columbia.

A. This was about the positions of the vessels when the hail came from the Columbia; the Columbia pointing to our midships directly. (Draws Diagram No. 3.)

Then we rang our bell to back, and our engine was backed, which swung the stem of the propeller towards New York. This is the position in which the vessels were at the time of the collision. (Diagram No. 4.)

Q. The Columbia was longer than your vessel?

A. Yes, sir.

Q. The stem of which vessel was farthest to the southeast, at the time they came together?

A. We backed as far as we dared back for fear of the Colum-

55 bia's wheel, and I think there was no difference in the stems when they struck. I think the stems came right together.

Q. At the time the Columbia came in that way had her headway been stopped at all?

A. No, sir.

Q. How rapidly was she coming through the water?

A. She was coming at full headway at the time of the collision, and we judged her to be hooked up, from the working of the wheels.

Q. Could see any diminution of her speed at all, up to the time she struck you?

A. No, sir.

Q. Were her wheels going ahead?

A. Yes, sir, moving rapidly ahead.

Q. What became of her wheel when your boats came together?

A. Her starboard wheel walked right up on our deck, and stopped her engine until it slid off again, when it went on. The Columbia's wheel was broken on our deck; she left a piece of the rim of her wheel on our deck.

Q. How far did the Columbia's wheel run upon your deck?

A. It came on about midships and ran to the port chains. I do not know that it ran that whole distance, but it carried our bulwarks away and everything up to the fore-mast.

Q. What distance did it run on the deck, where you could see
56 the mark of the wheel?

A. I should think 40 or 50 feet. I should have measured it if necessary; that is my judgment now.

Q. What broke her wheel-house?

A. Jersey Blue timber, by her running on to us; the Jersey Blue had clamps, and a strong piece of white oak, running fore and aft, pretty strong, which bore on the wheel and stopped her until she slid off. She was still under headway when she slid off, and her wheel started in quicker motion than when she came on us.

Q. Did you run into her at all?

A. No sir, we did not.

Q. At the time you came together, what way had your vessel?

A. I think we had stern-way, we might have drifting a little with the tide, but the Jersey Blue had no way through the water.

Q. Suppose you had not backed, where would the Columbia have struck you?

A. Midships, head on.

Q. Taking the positions of the two vessels at the time the Columbia came out, was there any difficulty about her going under your stern?

A. She would not have gone within 200 yards of us if she had kept right out into the channel. It was her swinging that caused
57 me to give the whistle; she was swinging so rapidly that I knew unless she changed her course she would come down on us.

Q. Was there anything to prevent their seeing you when you started from the dock?

A. I do not think there was; there was nothing in the way—no vessels at anchor; the Jamestown or Yorktown came straight out into the river a little above that, and went down.

Q. You saw her do that?

A. Yes, sir, I saw one of the Richmond do it a little before that; about the same time.

Q. Was it good navigation for the Columbia to keep in the ice?

A. I should think not; not so long as they could go straight out. I think it was bad management.

Q. Was there any reason for you to go up into the ice?

A. I think not. We did not have any occasion to do so. I did not think there was much ice there, and I do not still think there was a great deal.

Q. Which way does the ebbtide set from the East River?

A. Off towards the Jersey shore.

Q. Where does it carry the ice?

A. The ebbtide from both rivers at that point takes the ice towards the Jersey shore.

Q. Do you know what time in the ebb it was?

A. I do not; it was a strong ebb; I should judge half-ebb.

58 Q. Who repaired your vessel?
A. Mr. Clickner.
Q. Did you have a survey?
A. Yes, sir.
Q. Held by whom?
A. It was either Mr. Seaman or Mr. Bramhall, port-wardens, perhaps both; we had two or three surveys.

Cross-examined by Mr. R. Benedict:

Q. How long had you been in command of the Jersey Blue at this time?
A. About a year.
Q. That was about the first of your following the water?
A. Not wholly. I had a small experience; nothing that I took much count on.
Q. You came from Jersey City coal-dock. Do you recollect what time you left the coal-dock?
A. I do not; it was the afternoon; probably about the middle of the afternoon.
Q. How long does it take you to come across the river?
A. Sometimes it takes us longer, and sometimes shorter.
Q. At what rate does your vessel run?
A. At that time she ran perhaps 6 knots an hour. I think not exceeding that.
Q. Does she not run more than 6 knots?
A. At that time she was not repaired; since then we improved
59 her speed; 6 or 7 knots was her average speed at that time.
Q. Was any one in the pilot-house but you and Mr. Ashford?
A. No, sir.
Q. Where did you say you were when you first saw the Columbia?
A. In the wheel-house.
Q. I mean where was the Jersey Blue?
A. Below pier No. 1. I should not say how far; probably not over 200 yards out from the edge of the piers.
Q. Could you mark on the chart about where she was?
(Witness marks X where he was when he first saw the Columbia, and the letter B where they were at the time of the collision.)
Q. That was a little below Castle Garden?
A. About opposite.
Q. The letter B, I understand you to say, was the place of the collision?
A. Yes, sir.
Q. What distance out were you at the time of the collision?
A. In the range of the piers, probably inside of the piers, at the time of the collision; but about that distance off.
Q. You think you were going six knots when you first saw the Columbia?
A. I think not exceeding that.
Q. What sort of pilot-house have you on the Jersey Blue; is it
60 open all round?
A. It had windows all round. I am not sure whether there were windows aft or not, but I think there were.
Q. Were you and Ashford both at the wheel?
A. Yes, sir; we both had our hands on the wheel.
Q. Which side of the wheel were you standing?

A. On the port side.

Q. What called your attention to that vessel?

A. I was looking around to see if there was any obstruction, and I saw her over my shoulder, and I called Mr. Ashford's attention to her.

Q. Which window did you look out of?

A. Out of the side window.

Q. When you saw her, I understand you, she had just cleared the pier?

A. Yes, sir.

Q. Had not got outside of the pier?

A. If she was out it was a very short distance. She might have been outside, but it was close on.

Q. How long after that was it before you blew your whistle?

A. It might have been 5 or 10 seconds; not longer than that; just long enough to call my pilot's attention to it.

Q. How long was there between the whistles?

A. That I cannot say; some two or three minutes; perhaps more than two; we waited a proper time for an answer, and did not get, and then gave them another whistle.

61 Q. I understand you to say that at the time you were at the X she was at pier No. 4?

A. Yes, sir, swinging.

Q. How soon do you say you stopped?

A. Immediately, when we did not get a reply to our whistle.

Q. Why did you stop when so far below her?

A. Because we could not pass her bows the way she was coming, nor could we get round; we had not speed enough to turn and get back out of the way.

Q. Could you go ahead?

A. No, sir.

Q. You were not so far below that you could cross her bows?

A. We were not so far by her that we could cross her bows, but we were far enough below if she had ported her wheel.

Q. I understand you to say at that time you were at a distance from the place of collision. How far?

A. A very short distance. We immediately stopped and backed stopped our headway.

Q. Were you 100 feet?

A. Yes, sir.

Q. 100 yards.

A. I cannot say that we were 100 feet in reality.

Q. Give your judgment.

A. Say 100 feet; it is guess-work; we might have been 100 feet and might not have been 50.

Q. Do you mean to say that from the time you first saw the
62 vessel to the collision, you could not have run 100 feet?

A. I think we could, sir; if we had not stopped. I think we could have gone more than that.

Q. How much more?

A. I cannot tell.

Q. How long from the time you first saw this vessel until the collision?

A. A very few minutes.

Q. How many do you mean?

A. It was not 20, and I do not think it was 10.

Q. Is that the nearest you can come to it?

A. I do not think it was 10 minutes.

Q. If you are running at the rate of 6 miles an hour, how far can you run in 10 minutes?

A. That would be easy told.

Q. You would run a mile?

A. Yes, sir. I was making my calculation; from the time your pilot stated, when he said twenty minutes.

Q. I want your knowledge now. How long do you think it was?

A. It was a very short time; I do not think it was 10 minutes or 5 minutes.

Q. Was their any alarm experienced on board your boat, among yourselves?

A. Yes, sir. We knew she would come on us, unless she changed her course.

Q. Was there any symptoms of agitation or terror?

A. Not in the least; we took it very coolly.

63 Q. You heard no other hail but this one you speak of?

A. That is all I heard.

Q. How far were the vessels apart at this time?

A. Not over twice the Columbia's length, if they were that.

Q. And at that time, as I understand you to say, you rang your bell to back?

A. Yes, sir; we rang one bell to back after we heard the hail, and we did back.

Q. How were you heading at the time you marked diagram No. 3?

A. I cannot give the point of the compass. We were to the northward of the channel, heading into the East River. We were not in the middle between the islands, but were nearer to the Battery shore.

Q. No. 3, as I understand you, expresses the position of the vessels when you first saw the Columbia?

A. That expresses the position of the vessels when the hail came.

Q. Between the time you first saw the Columbia and the hail, did the Columbia change her course?

A. Very materially.

Q. How had she changed?

A. She had changed to the eastward.

Q. And which way do you say she was heading at the time when you heard the hail, in reference to Governor's Island?

64 A. She was heading a little inside of the point—I should think heading to the centre of Governor's Island, at the time the hail came.

Q. Did she change her course after that?

A. I do not think she did; I did not discover any. We were coming so close together that I could not see a change at that time. I do not think her course was changed; there was not time to change much any way.

Q. How far off was she when you heard the hail?

A. I do not think twice her length.

Q. How much would her natural course have been within the end of Governor's Island, according to your destination?

A. Her destination was she had to go to westward of Governor's Island, outside.

Q. What was her direction then?

A. She was then on a course that would have taken her into the East River.

Q. What would have been her natural course?

A. She should have gone down into the channel, and to the westward of Governor's Island, as she had to go. The Jamestown had gone out from a pier above almost at the same time.

Q. How far off do you think the Columbia was when you first saw her?

A. I do not think she was a quarter of a mile.

Q. Did you get any order from your pilot?

65 A. I did.

Q. What orders did he give?

A. He ordered her backed.

Q. Did you stay in the wheel-house until after the collision?

A. Yes, sir.

Q. Did you see the Jamestown or Yorktown come out above this pier?

A. Yes, sir.

Q. Which side of you did the Jamestown go?

A. She went ahead of us—that was before I got over; but she went a long way outside of the course the Columbia took.

Q. Did you see the "Augusta" come out?

A. No, sir; it might have been the Augusta that came out instead of the Yorktown or Jamestown, but I think not. There was only one steamer which I saw go out ahead of this one.

Re-direct:

Q. Was the stem of your boat touched at all or injured?

A. I do not know that it was; I do not recollect now.

Q. How much of your rail was left standing on the port side of your stem?

A. I cannot say; there were some 10 or 15 feet.

Q. Your stem never touched the Columbia at all?

A. I do not think she was grazed at all.

Q. If your stem had struck her so as to break her wheel-house, it would injure your stem?

66 A. Yes, sir; it would have torn it all to pieces.

Q. And your stem was not injured at all?

A. No, sir; our bulwarks forward of the foremast to the stem were left standing on the port side; abaft that to midships they were carried away for about 80 feet.

Q. Suppose the wheels of the Columbia had been stopped when your vessels came together, almost side by side, as they did, would there have been any damage done?

A. Not a bit.

Q. Any more than a mere grazing?

A. The paint might be scratched off, but I do not think it would have broken a plank.

Q. What was it that caused the damage?

A. The forward revolution of the Columbia's wheel.

Q. If that had been stopped, what would have been the effect?

A. She would have struck us, and would have glanced off. After we backed it brought us heading very nigh the course she was; by backing the propeller it changed her course, and we were angling very near the way she was. Another thing: I think the suction of the wheels had a tendency to draw us towards her, we being a much smaller boat. She might possibly have cleared without touching at all, if she had stopped her wheels, and if she had touched it would cause no damage.

Edmund B. Seaman, called by the claimant, in No. 1, being duly

67 sworn, was examined by Mr. Beebe:

Q. What is your business?
A. Port-warden of the port of New York.
Q. How long have you been port-warden?
A. About ten years.
Q. Do you know the Jersey Blue?
A. I see that I surveyed her January 7, 1860.
Q. Have you the report you made at that time?
A. I have, sir.
Q. Read it.
A. January 9, 1860. Propeller Jersey Blue. Surveyed this vessel on the dock, in company with Mr. Clickner, shipwright; found about 50 feet of bulwarks on the port side stove; 11 stanchions, 60 feet of the main rail, and 60 feet of the guard broken; the plank-shear split and started; deck broken about the foremast; fore chains on the port side bent; oakum in the deck started in places; fore-shrouds on the fore-side chafed; one plank on the port side broken; found the oakum in three or four streaks on the port side bad started. Recommend the above damage repaired; the decks to be caulked where necessary, and three or four streaks on the port side caulked about 40 feet.

68 Q. Aside from your memory, have you any recollection?
A. I have not. I have made perhaps 8,000 or 1,000 seperate surveys.
Q. But that you will undertake to say is correct?
A. Yes, sir.
Q. Does that survey show any injury to the stem?
A. No, sir; if there had been any injury my attention would have been called to it.
Q. It would have appeared there?
A. I think so.
Q. Did you make a survey after that?
A. I did make a closing survey.
Q. Read that.
A. January 20th, 1860. Propeller Jersey Blue. Surveyed this vessel at [at] pier No. 7, East River, in regard to repairs recommended in former surveys, and find all has been done in a satisfactory and workmanlike manner.

Charles H. Bramhall called by the claimants; ex'd by Mr. Beebe:

Q. Were you port-warden in 1860?
A. I was.
Q. Did you survey the Jersey Blue?
A. I believe I did.

69 Q. Did you make a report of that survey?
A. I made a record of it.
Q. Turn to that book and see what record of it is there.
A. I find it under date of January 13, 1860. Propeller Jersey Blue. Surveyed this vessel at pier 43, East River; found three additional bulwark-stanchions split and broken; the bulwarks, main rail, plank-shear split, started, and injured about 20 feet farther than ascertained in former survey, say 80 feet in all. Recommend the same to be taken out and replaced with new; also found to outer planks, below the guard on the port-bow, split and injured; ordered taken out and replaced with new.
Q. Have you any personal recollection about it except what is written there?
A. I have not, outside of the record.
Q. That survey is correct?

A. Yes, sir.
Q. Does that survey show any injury to the stem of the propeller?
A. No, sir.
Q. If there had been any injury to the stem, would you have been likely to report it?
A. I think I should. My attention was not called to anything of the kind; accordingly I did not record anything of the kind.
70 Q. Whatever you did find in addition to what Capt. Seaman reported, you mentioned?
A. Yes, sir.

Cross-examined:

Q. You have no recollection as to whether there was any injury to the stem or not?
A. No, sir; nothing outside of what is recorded in the book.

Mathias Clickner, called by the claimants, being duly sworn, was exam'd by Mr. Beebe:

Q. What is your business?
A. Shipwright and builder.
Q. How long have you been engaged in that business?
A. Since 1856, in business for myself.
Q. Did you repair the Jersey Blue in January, 1860?
A. I did, sir.
Q. What time did you see her first after the collision, which was on the 7th?
A. I think I saw her on Saturday evening; I was called on by Captain Shodsey.
Q. Was that the day of the collision?
A. Yes, sir.
Q. Describe the character of her injuries. Whereabouts was she injured?
A. About midships.
Q. Extending how far?
A. Along some 80 feet, apparently as if something struck her
71 and worked forward on her, from the looks of her chains-bolts, which were bent forward.
Q. Did you find anything forward on the vessel?
A. There was a part of the Columbia's wheel on the deck forward?
Q. Was the propeller's stem injured?
A. Not at all.
Q. How far from the stem was the rail standing?
A. I think we scraped the rail within 12 or 15 ft. of the stem.
Q. And her stem was in tack and sound?
A. It was good.
Q. Would the running of the Columbia's wheel on the deck produce that damage?
A. Oh, certainly. I do not see how the Jersey Blue got off as easy as she did; I should have thought it would have sunk her. If it had not been for a string-piece of white-oak I put on her some time before, I think it would. I put a string of the best kind of white-oak, forward and aft, 16 inches wide and 6 inches thick; it was a piece of oak timber.
Q. That saved her from going down?
A. Yes, sir; nothing else, in my opinion.
Q. Could that damage have been caused by her running into anything?
A. I do not think it could, because it was some length the wheel ran on the top.

72 Q. Her stem had touched nothing?
A. Her stem had not touched anything that I could see.
Q. How long were you in making the repairs?
A. I do not think they were in a hurry. We put on plenty of men.
Q. Do you recollect how long you were making these?
A. No, sir.
Q. Did you have her out on the dock?
A. I think she was out on the dock?
Q. Could you determine from the character of the injury which way the force had come that had produced it?
A. The force had come from aft forward.
Q. The force must have been propelled forward?
A. Yes, sir; I could judge from the chain-bolts being bent forward that the motive must have been from aft forward.
Q. If the Jersey Blue, under headway, had struck and gone ahead, could that injury have been produced?
A. Not in that way.
Q. Would the ring-bolts have been bent in the way they were?
A. No, sir; exactly the contrary way.

Cross-examined:

Q. What were those chain-bolts you speak?
73 A. Along the side of the vessels that makes the shrouds fast to the mast.
Q. How big are they?
A. Sometimes an inch, sometimes 1¼ inch, sometimes 1½ inch; they go through the vessel and clinch inside; sometimes put on with a ring.
Q. They go through the wood?
A. Right through in a hole in the beam. We generally put them through, and clinch them inside.
Q. And you say these were all bent forward?
A. Yes, sir; those I saw were bent forward.
Q. Was there anything on the deck at all which would have shown the force was coming the other way?
A. I could not see anything that way; where it struck it carried it forward—these bolts were bent forward. That is the reason I thought the blow must have come from aft.
Q. Was the deck of the propeller flush?
A. There was a bulwark and stringer inside the stanchions, bolted to the stanchions and likewise to the beams.
Q. When did you put the stringer on?
A. I put it on some time previous; I cannot recollect. I gave her a thorough repair, and put a stringer inside and on the top.

74 Re-direct:

Q. Did you see any indications or signs of the wheel of the Columbia on the deck?
A. I cannot recollect about that, but I saw places where it was hacked or jammed; looked as if something had struck it pretty strong—chawed along.

Henry Prichard, called by the claimants, being duly sworn, was exam'd by Mr. Beebe:

Q. What is your business?
A. Shipwright.
Q. Who were you at work for in January, 1860?

A. Mr. Clickner.
Q. As foreman?
A. Yes, sir.
Q. Did you assist to repair the Jersey Blue after the collision?
A. Yes, sir; I was the first man on board.
Q. What time did you see her?
A. On Saturday afternoon, after the collision.
Q. Where was she injured?
A. On the port bow, about twenty feet from the stem, extending back 60 or 70 feet.
Q. Was her stem injured at all?
A. Not to my knowledge; she was not touched within 20 feet of the stem.
75 Q. You repaired her?
A. Yes, sir.
Q. You know whether the stem was injured or not?
A. I know it was not.
Q. Was there any indication as to how this was done; did you see any mark of the wheel oh deck?
A. I did, sir. I saw part of the iron rim of the Columbia's wheel; the oak clamp that went on top of the clamp-shear was cut down four to six inches by the working of the wheel on her deck.
Q. Could you determine from looking at that whether the injury commenced forward or aft?
A. I should think it commenced aft and went forward.

Cross-exam'd by Mr. Benedict:

Q. I understand you the oak plank was cut down how much?
A. 4 to 6 inches.
Q. How thick a plank?
A. 4 inches thick and 14 to 16 inches high.

William H. Green, called by the claimants, being duly sworn, exam'd by Mr. Beebe:

Q. What is your business.
76 A. Engineer.
Q. Were you on board the Jersey Blue at the time of the collision?
A. I was.
Q. How long after that did you remain on board?
A. I do not know; some time.
Q. Did you and Captain Chadsey part pleasantly or unpleasantly?
A. Oh, unpleasantly.
Q. When you left you were not friendly together?
A. We were not.
Q. Have you ever been attached to the Jersey Blue since?
A. Never.
Q. You have been subpœnaed here at other times on the side of the Columbia.
A. I have.
Q. Describe whereabouts your engine-room was on board the Jersey Blue.
A. It was about 20 feet from the stem.
Q. Had you two doors?
A. Yes, sir.
Q. Was that engine-room flush with the main deck?

Ans. Yes, sir.
Q. Did the Jersey Blue have any upper deck?
A. It went part ways, from aft forward.
Q. That was a cover over the engine-house?
A. Yes, sir; it extended about 20 feet farther than the engine-room.
77 Q. As you stood at your engine-room door, could you see distinctly all round?
A. Yes, sir, on one side—whichever side I stood on.
Q. Do you remember about what time you left Jersey City?
A. Sometime in the afternoon.
Q. What did you go there for?
A. Coal.
Q. Where were you bound from there?
A. Round to the East River.
Q. After you left, where did you stand?
A. I was in the engine-room, by the engine.
Q. Were you looking out any of the time?
A. No, sir; not until I heard the whistle blow.
Q. You heard your whistle blow?
A. Yes, sir.
Q. You looked out, then?
A. Yes, sir; I looked out to see what it blew for.
Q. Which door did you look out of?
A. The port door.
Q. How far, at that time, should you think the Jersey Blue was from the New York side?
A. As near as I can recollect, I think two-thirds of the way across the river.
Q. About opposite what pier or place?
A. Between pier 1, and Castle Garden.
78 Q. Did you look out as soon as you heard the whistle?
A. Yes, sir.
Q. Was that a signal whistle or more than one?
A. One whistle.
Q. What did that mean?
A. I suppose it meant to go to the right.
Q. That is what it is blown for?
A. I have been told so.
Q. Did you hear any answer to that signal?
A. No, sir.
Q. After the blowing of the signal, was your engine stopped?
A. Yes; it stopped after the whistle was blowed.
Q. How long should you think was the engine stopped before the collision took place?
A. About half a minute.
Q. Did you see the Columbia when you looked on the port side?
A. I did.
Q. How did she bear from you as you looked out on the port bow?
A. I looked up the river, and across towards the New York shore and behind.
Q. Not above you?
A. No, sir.
Q. Did you notice which way she was heading that time.
A. I saw her heading very near head on. I think her port
79 bow was towards us.

Q. Heading to you?
A. Heading out and swinging around, as I saw her.
Q. At that time, she above you and swinging, could your vessel have gone under her stern?
A. I do not know whether she could or not. I do not think she could.
Q. Was there any difficulty in the Columbia going under your stern?
Q. How near to the New York shore did the collision take place?
A. Somewhere in a line with pier No. 1, or near it.
Q. Where were you bound to?
A. To the East River.
Q. Was that above or below pier No. 1?
A. Below pier No. 1, about off Castle Garden; well in.
Q. Did you notice it, whether it was inside the end of pier?
A. I did not notice.
Q. After your engine was stopped, did you hear another whistle blowed?
A. I did.
Q. Was there any answer to that signal from the Columbia?
A. Not that I heard.
Q. Did you hear any hail from the Columbia?
80 A. I did not.
Q. You heard no hail from her at all?
A. No, sir.
Q. When the second signal was blown and no attention was paid to it, what was done with your boat?
A. They rang the bell to stop and back.
Q. Did you back, then?
A. Yes, sir.
Q. At the time the vessels came together, was your engine backing?
A. Yes, sir.
Q. Do you know how many revolutions she had made back at that time?
A. I do not know exactly—several.
Q. What was the effect of the backing revolutions on your course?
A. It would slew us around one way or the other.
Q. Would it throw your stern in?
A. Either in or out; it would change her.
Q. If your vessel had swung one way or the other, where would the Columbia have struck you from the way she was coming?
A. I did not see them coming together. When I last saw them, they were about a length of the Columbia apart. The Columbia was heading on pretty near down the river.
81 Q. How, in reference to you?
A. Heading right across our bows; that is, she was above us and to the east of us.
Q. The boats were angling together?
A. Yes, sir.
Q. Did you see them come together?
A. I saw them when they were about a length apart.
Q. How did her wheel pass when they came together?
A. The Columbia's wheel struck us about midship; somewhere in that neighborhood.
Q. Where did her wheel run?
A. It ran forward on the Jersey Blue.
Q. Did her wheel run up on your deck?
A. I did not see it come on deck.

Q. Did you see where it had been on deck?
A. Yes, sir.
Q. Did you see the rim of the Columbia's wheel on deck?
A. Yes, sir.
Q. Did you observe any ice there?
A. No. I do not recollect of seeing any ice.
Q. Where did you go to after you got clear?
A. Round to the East River. I do not recollect where.
Q. Where you wanted to go?
A. Yes, sir.
Q. The Columbia came out of pier 4?
A. Yes, sir.
82 Q. When you first saw her, you were about opposite pier 1?
A. Yes, sir.
Q. How far was she out of her slip at that time?
A. She had got out clear, and when I saw her she had begun swinging down.
Q. Was there any difficulty you saw in her going right out into the middle of the river?
A. Not a bit.
Q. Where would that have carried her, in reference to your boat?
A. A good way to the stern of us.
Q. It was the coming [coming] down between you and the above that produced the collision?
A. Yes, sir.
Q. If she had gone off into the middle of the river she would not have gone near you?
A. No, sir.
Q. After she paid no attention to your signals, was there any you could have gone round to the stern of her?
A. I think not.
Q. If you had attempted to go to the stern of her, would it have carried you out of your course?
A. Yes; se would have had to go back again.

83 Cross exam'd by Mr. Benedict:

Q. When you first saw the Columbia you were standing at your engine-room door, as I understand?
A. Yes, sir.
Q. Did you think, then, whether there would be a collision or not?
A. I thought if she kept swinging around, and we kept on our course, we would come together; I did not see anything to prevent it.
Q. How far were you on your course then?
A. Two-thirds of the way across.
Q. And how was the Columbia pointing at that time?
A. Pretty near straight out in the river, swinging down.
Q. How long after that before the bell rang?
A. I do not recollect.
Q. How far do you suppose you ran before the bell rang?
A. About a minute or two minutes.
Q. Do you know what rate of speed you were making that day?
A. I should judge about 6 or 7 knots an hour.
Q. I understand you to say, you think the bell to stop rang about half a minute before the collision?
A. No, to back.
Q. Did the bells to stop and back come close together?

84 A. Not very; it gave me good time to work the engine.

Q. Now, if the bell rang to stop when you first saw the Columbia, would there have been any collision in that case?

A. I do not know how that would have been. It would depend upon circumstances.

Q. Would your vessel, if the bell had rang to stop at that time, have reached the point it did reach?

A. It would not, certainly, if we stopped.

Q. How far short of it would it have come?

A. I cannot tell. It would come within two or three lengths, I suppose.

Q. Did you notice how the vessels were heading at the time of the blow?

A. The Columbia was heading about straight down the river, and were heading diagonally across the river.

Q. When you looked out, which way did you understand was the proper course for the Jersey Blue to go?—to go across the bows of the Columbia or under her stern?

A. I do not know that I formed any opinion about it.

Q. Have you any opinion about it now?

A. I never had any experience in that business of heading the boat; my business is to handle the engine. I do not consider I would be a judge in that case.

85 Q. When you stood in your engine-room door, and first saw the Columbia, was she to your right [right] or left?

A. She was to my left.

Q. Was your engine backing at the time it struck?

A. Yes, sir.

Q. When was that?

A. After the wheel hit us.

Q. Could you say how many revolutions back you had made before the blow?

A. No; I cannot tell exactly. I suppose we had backed ¼ to ½ a minute, or in that neighborhood.

Q. Can you tell how many revolutions you were making?

A. I suppose working by hand I would make 50 or 60 revolutions a minute.

Q. And you think you had made ten revolutions back?

A. I should think somewhere in that neighborhood.

Q. How many revolutions back will stop the way of your boat?

A. I do not know how many would; I suppose to stop her, it would take 10 or 15 revolutions.

Re-direct:

Q. If I understand you, the bell to stop had been rung some little time before the bell to back?

86 A. Yes, sir.

Q. Do you know Mr. Ashford?

A. Yes, sir; he was paralized afterwards; have heard he was dead.

Mr. Beebe read the deposition of Mr. Ashford.

Farther testimony to be taken out of court, and case submitted on a future day, not fixed.

87 U. S. district court.

PAUL SPOFFORD ET AL
vs.
THE STEAM-PROPELLER JERSEY BLUE, HER TACKLE, &C.

LOCKWOOD
vs.
THE STEAMSHIP COLUMBIA, HER TACKLE, &C.

SOUTHERN DISTRICT OF NEW YORK, *ss.*:

William Ashford being duly sworn, says:

I was pilot of the Jersey Blue at the time of the collision with the steamship Columbia. I was in the pilot-house. The Jersey Blue had come from Elizabethport. Each was bound to the East River. We had been to Jersey City before going to Elizabethport. When we first saw the Columbia she was about ½ a mile. She was coming from pier 4, North River. When we saw her we blew our whistle once.

Q. What did blowing your whistle once mean?

A. That meant we were going ahead of her and to the her right, and she to our right.

Q. Did the Columbia answer your signal?

A. No, sir; that was what we waited for.

Q. Did you blow another signal; and, if so, how many times did you whistle?

A. Then we blew again one whistle.

Q. Did the Columbia answer that signal?

88 A. She did not answer that signal. Somebody on board the Colombia said, We can't stop.

Q. How near was the Columbia the Jersey Blue when the hail came that they could not stop?

A. Within four lengths of the Jersey Blue, I should think.

Q. Which way was the Columbia at that time heading in reference to the Jersey Blue?

A. The Columbia was heading south by west about, & inclined towards our bow.

Q. When the hail came that they could not stop the Columbia, what did you with the Jersey Blue?

A. I rang the bells to stop & back the Jersey Blue.

Q. Did she stop & back?

A. She did stop & back.

Q. Was that to let the Columbia go ahead of you?

A. Yes, sir; we did.

Q. Did the Columbia stop her headway at all before she struck you?

A. No, sir.

Q. Where did she strike you?

A. Just forward of midships.

Q. What part of the Columbia struck you first?

A. Her wheel struck us first; her wheel came right upon our deck.

Q. Was there anything that prevented her going under your stern?

A. Nothing; she had the whole river.

Q. What was the effect of the stopping & backing of your

89 boat?

A. It threw our bow off and stern around and brought our side to the Columbia so that she struck us quartering; if we had not, she would have struck us bow on.

Q. How far from the end of the pier, and opposite what pier was the Jersey Blue at the time she was struck?

A. I could not say positively; I could not judge. It was off Staten Island ferry-pier. I have had paralysis and have been confined to the house since August last.

Cross-examined:

Q. How long from the time you sounded the whistle the first time before you stopped & backed?

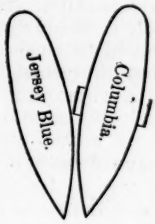
A. It was a very few minutes; in a few minutes we blew again.

Q. How long was it from the time you backed to the collision?

A. It was only a few minutes; that was all.

Q. How did the vessels come together?

A. Our bows were pointing the same way. The wheel of the Columbia struck us amidships.



The above is about the picture of the way they came together.

90 his
HENRY × ASHFORD.
mark.

Sworn to before me, this 31st day of May, 1865.

O. R. STEELE,
Notary Public.

(Endorsed:) U. S. district court. The steam-propeller Jersey Blue, her tackle, &c., ads. Paul Spofford et al. Deposition. Beebe, Dean & Donohue, proctor for cl'm't.

91 STATE OF NEW YORK,
Warden's Office, Port of New York:

By virtue of an act of the legislature of the State of New York, entitled "An act to reorganize the warden's office of the port of New York," passed April 14th, 1857, we, the port-wardens of the port of New York, do hereby certify and make known, unto all to whom these presents shall come or may concern, that, at the request of the master of the propeller Jersey Blue, C. H. Bramhall, of the wardens of the said port, Jan'y 13, 1860, surveyed this vessel at pier 43, East River. Found three additional bulwark stanchions split and broken, and bulwarks, main rail, & plank-shear split, started, & injured about twenty feet further than ascertained in former survey—say eighty feet in all; recommend the same to be taken out and replaced with new; also found two outer plank below the guard on port bow split & injured; ordered taken out and replaced with new.

H. & R.

In testimony whereof, we have hereunto subscribed our names and caused our seal of office to be affixed this second day of March, [SEAL.] in the year our Lord one thousand eight hundred and sixty-five.

MINTHORNE TOMPKINS, *President.*
J. AUG'T HERMAN, *Secretary.*

[Int. rev. 25-c. stamp cancelled.]

92 (Indorsed:) Certificate of the wardens of the port of New York. Office, 104 Wall st.

93 STATE OF NEW YORK,
Warden's Office, Port of New York:

By virtue of an act of the legislature of the State of New York, entitled "An act to reorganize the warden's office of the port of New York," passed April 14", 1857, we, the port-wardens of the port of New York, do hereby certify and make known, unto all to whom these presents shall come or may concern, that, at the request of the master of the propeller Jersey Blue, W. B. Seaman, one of the wardens of the said port, Jan'y 20, 1860, surveyed this vessel at pier 7, East River, in regard to repairs recommended in former survey, and found all had been done in a substantial and workmanlike manner.

H. & R.

In testimony whereof, we have hereunto subscribed our names and caused our seal of office to be affixed, this second day of [SEAL.] March, in the year of our Lord one thousand eight hundred and sixty-five.

MINTHORNE TOMPKINS, *President.*
J. AUG'T HERMAN, *Secretary.*

[Int. rev. 25-c. stamp cancelled.]

94 (Indorsed:) Certificate of the wardens of the port of New York. Office, 104 Wall street.

95 U. S. district court.

PAUL SPOFFORD ET AL.
vs.
THE PROPELLER "JERSEY BLUE."

BUNTING
vs.
THE STEAMER "COLUMBIA."

Alexander Barr, a witness, duly sworn and examined on behalf of the libellants in the first above case, & the claimants in the second case, testifies as follows:

I was first mate of the Columbia at the time of the collision. I have followed the water twenty-two years. I recollect the collision with the Jersey Blue. I was standing on the forecastle hatch when the Columbia left her dock. I stood there till the collision. The river was full of ice over on the east side. The ice extended out, I should judge, between two & three hundred yards. The Columbia went straight out from her dock and pointed down the river as soon as she could for the ice.

Q. Did she come out in the usual way?
(Objected to.)

A. In the usual way, sir; the first I saw of the Jersey Blue, she was, I should judge, about three or four hundred yards from us; she was coming from the Jersey side. We were heading a little down the
96 river at the time. We had not got out of the ice. The port wheel had not got out of the ice. The Jersey Blue was coming right square for us, trying, as I thought, to cross our bows, heading for the East River, I suppose. I could not say whether I saw any change in her course. We had our helm hard astarboard to keep our head down the river as soon as we got clear of the ice. I could not say whether I heard any whistle from the Jersey Blue. I can't remember. I think I remember hearing our pilot hail them to stop and back. I think she was about two or three hundred yards off when he hailed them. I believe the headway of the Jersey Blue stopped a little before the collision. I believe the port side of the Jersey Blue came against our starboard side & our wheel passed over the bluff of her bow. At the time of the collision, I think, we were down somewhere between pier 1 and Castle Garden; may be a little further down. I should judge we were two or three hundred yards outside of the lines of the piers—two or three lengths of the ship out, I judge. There was nothing to prevent the Jersey Blue from going under our stern. She had no ice in the way, nor any
97 thing else. The Columbia had not room. The ice was keeping her so she would not steer very well. She had her helm hard astarboard to keep her down all she could.

Q. Would there be any difficulty in her stopping in the ice?

A. There would; if she stopped it would not be very easy getting her over the centre, for one thing; large cakes of ice were coming along. There was nothing in the way to prevent the Jersey Blue from seeing how the Columbia was coming. I heard no hail from her. There was no answer to our pilot's hail.

Cross-examined:

I believe she went out the south side of the pier; as she started out she headed out towards Jersey, as straight as we could go out.

Q. Did you head straight out until you got your head out of the ice?

A. Yes, sir; with the helm a little to starboard.

Q. Was there anything to prevent your keeping straight on over to the Jersey shore?

A. No, sir.

Q. From the outer edge of the ice, how far was it to the Jersey shore?

A. I could not say.

Q. How many times was the space covered by ice clear of the ice between it and the Jersey shore?

98 A. I should think there was about as much again space not covered by ice between the pier & the Jersey shore as there was covered by ice.

Q. Did your pilot's hail call your attention to the Jersey Blue?

A. Yes, sir.

Q. At that time, towards what point was the Columbia heading?

A. So far as I can remember, our boat was then heading between Jersey City & Gibbet Island—the little island.

Q. Had your vessel, then, got all out of the ice but the port wheel?

A. Yes, sir; our vessel was a side-wheel steamer and the other was a propeller.

Please place the vessels as they were in reference to one another at the time you heard your pilot's hail, as you have stated?

(The witness places the same in the diagram, and they are marked and the diagram is hereto annexed, & marked No. 1, Feb'y 5th, 1866.)

Q. At the time of the hail, where was your vessel?

A. I think she was between pier 1, North River, and the Battery; perhaps a little lower.

Q. At that time, what was the distance between the two vessels?

A. Between three and four lengths, say four lengths of our vessel. Diagram shows how the vessels came together, as far as I can remember. At the time the vessels came together, our vessel, as near
99 as could be, was heading between Bedloe's Island and the small island. As near as I can recollect, I should think we were between three & four hundred yards off the docks when we came together, more or less. The tide, I believe, was ebb at the time, as far as I can remember. I could not say whether there was ice in the East River. I did not see any space cleared by the tide between New York and Governor's Island. I do not recollect whether there was or not. I now belong to the Moro Castle. Have been in the same employ 14 years. Both vessels belong to the same employ.

Re-direct:

Q. Are we to understand that you had not seen the Jersey Blue till the [the] pilot hailed?

A. I might have seen her, but I did not take notice of her.

Q. What was the effect of the tide upon the Columbia's head as she went out of the pier?

A. It always helps to swing her a little.

ALEX'R BARR.

Sworn to before me this 5th Feb'y, 1866.

WM. D. JONES,
Notary Public, 76 *Wall st.*

100 Robert Campbell, being duly sworn on behalf of the Columbia, says:

I was second mate of the Columbia at the time of the collision. I have followed the water 23 years. I was on the upper deck of the Columbia at the time.

Q. How did the Columbia go out of her dock?

A. She went right out, heading for Jersey. Her helm was astarboard, and as she went out her head kept canting down the river. She swung as she went out.

Q. What first called your attention to the Jersey Blue?

A. My seeing her coming across from Jersey, and looking as if she was trying to cut us off. She was then from five to six hundred yards off then, to the best of my knowledge. At that time the head of the Columbia might be pointing as low as that island, or perhaps as low as Quarantine. The ship was swinging, & I kept watch of her pretty steady from that time till the collision. She came right on and struck us on the forward part of our wheel, under our guard, her head pointing towards our head at a kind of an angle. At the time of the collision the Columbia was heading down to Quarantine, or perhaps between the island and Quarantine. I don't remember hearing our pilot hail. I heard no hail from the Jersey Blue.

101 Q. From the time you first saw the Jersey Blue what change, if any, was made in the direction of the Columbia?

A. There was no change—no more than her swinging down; she kept swinging down a little.

Q. Had you got out of the ice at the time of the collision?

A. Her starboard wheel was; her port wheel—I could not say.

Q. Was there any difficulty in the Jersey Blue going under your stern?

A. No, sir.

Q. Was there any difficulty in the Columbia's going under her's?

A. Yes, sir. The Columbia could not well go under her stern, without she stopped and let her go ahead of her.

Q. How long after the Columbia left the dock was the collision?

A. I should say fifteen minutes or twenty; it is several years ago, & it is hard to remember.

Cross-examined:

I saw no change in the course of the Jersey Blue from the time I first saw her until the collision. I have heard Barr's testimony. My best recollection is that the Jersey Blue was heading towards the East River or the Battery, somewhere from the Jersey shore—from Jersey side—from somewhere above pier 4, on the North River side. We started with a starboard helm from the dock; can't say whether hard astar-
102 board or not. We continued to starboard helm until the time of the collision. That would, as we went out, swing our head to the left. The ice extended out, to the best of my knowledge, from 3 to 400 yards. There was not half as much ice as there was clear water. I think it is a mile and a quarter across there, and a mile of clear water. I do not remember what called my attention to the Jersey Blue, only looking at her to see the direction she was coming in. I don't remember calling anybody's attention to her. I thought, at the time I first observed the Jersey Blue, if both vessels kept going there would be a collision. They were then from 5 to 600 yards apart. I then formed that opinion. Our starboard side was then clear of the ice; can't say about the port side. We were then heading about between Robbins Reef and Quarantine. Our vessel was then between pier 1, North River, and Castle Garden — might be half-way between. The Jersey Blue was then more towards, and angling towards our bow. She bore at that time about abeam, or forward of abeam a little—about abeam, as near as I can get at it. She was then angling a little forward of us, about 5 or 600 yards off. I was doing nothing at the time I saw the Jersey Blue. We
103 were between pier 3 and Castle Garden when the collision took place. Our vessel might have been off pier 3, or half-way between pier 3 and Castle Garden.

Re-direct:

Q. Was the headway of the Jersey Blue stopped before the collision?

A. To the best of my recollection, her headway was stopped a little; for her engine, I could not say.

ROBERT CAMPBELL.

Sworn to before me this 6th Feb'y, 1866.

JNO. B. ERHARDT,
Not'y Public, 76 Wall st., N. Y.

(Endorsed:) U. S. district court. Paul Spofford et al. against the propeller "Jersey Blue," &c. Deposition of Alex'r Barr & Campbell. Benedict, Burr & Benedict, lib'l't's proctors, 76 Wall st., N. Y.

105 U. S. district court.

THE PROPELLER "JERSEY BLUE," HER TACKLE, &C., *ads.* PAUL SPOFFORD ET AL.

JAMES H. BUNTING *ag'st* THE STEAMSHIP "COLUMBIA," HER TACKLE, &C.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Edward H. Taylor, being duly sworn as a witness on the part of the Jersey Blue, says:

That he is the master of the schooner "Two Sisters," now lying at Jersey City; that he has followed the water some years. I was on deck on board the Jersey Blue at the time of the collision with the Columbia. The Jersey Blue started from the Jersey City coal-docks, bound into the East River. She steered the course to go there after she left Jersey City. I saw the steamship Columbia before the collision. I was on the upper deck of the Jersey Blue when I first saw the Columbia. We were then heading towards the East River. I continued on deck from the time I saw the Columbia up to the time of the collision. When I first saw the Columbia, I think we were about the middle of the river. When I
106 first saw the Columbia she was straightening down the river. She was a little ways below pier "4" when I first saw her—perhaps as low as pier "2." We were below her. Our propeller whistled; it was a distinct whistle—one whistle. When I heard the first whistle, I should think the vessels were from three to four hundred yards apart. The single whistle was to keep to the right. There was no answer to that signal, that I heard; if there had been I should have heard it. After we blew the first whistle we blew the second whistle; from three to five minutes between them. About the time we blew the last whistle our machinery was stopped—I can't say whether at the time of blowing, or a little before or after; can't say which. When the second whistle was blown I should think the vessels were within one hundred yards of one another. We heard no whistle in return to the second whistle. After the second whistle I heard some one from the Columbia hallo, and I understood him to say, We can't stop. We backed down our boat. When we blew the second whistle the Columbia was heading inside of the Narrows, towards Governor's Island. At that time we were farthest down the river, and heading towards the East River. I observed ice close into the docks; there was no ice out in the river, that I saw. There was no ice where the collision took place; there might have been on the other side of the Columbia, but I think not. The collision took
107 place off Castle Garden—somewhere about four hundred yards off.

I do not think there was any difficulty in the Columbia's going under our stern when I saw her first. When we blew our first whistle she could have gone under our stern. I could not say whether, when we blew our second whistle, she could have gone under our stern, but if she had stopped her machinery we could have gone ahead of her. The backing of our boat threw our bow down the river and our stern towards the shore. The vessels came together angling broadside. Her wheel struck us about midships. At that time our vessel had no headway on, I think. The Columbia had headway on; she had not slackened her headway any up to the time the vessels came together, that I saw. The starboard after-wheel of the Columbia ran upon the deck of the Jersey Blue, commencing at the main rigging, and went as far as the forward rigging,

within about twenty to twenty-five feet of our stem. I do not think our stem was injured. I do not think the stem touched the Columbia's at all. When the Columbia's wheel went off our deck it was still going ahead. If, at the time the vessels came together side and side angling, as I have said, had the Columbia's wheel been still, I do not think the damage would have been as much. The Columbia's wheel dam-
108 aged the propeller. I suppose the damage to the wheel of the Columbia was caused by her wheel running upon our deck. We had a heavy piece of timber on our deck.

Q. Would the propeller, going under the stern of the Columbia, have carried her out of the way she was bound?

A. It would have carried us above our course.

Q. At the time the propeller's whistle was blown the first time, could you then have changed your course and gone under her stern?

A. I do not think we could.

Q. The steamship Columbia, bound from pier 4, North River, to Charleston, would it have carried her out of her course to have gone under your stern?

A. No, sir; I do not think it would.

Cross-examined:

There was on the "Jersey Blue" Capt. Ashford, Capt. Chadsey, Green, the engineer, Daniel Lawlor, fireman. I & Dan. Corbett, or some such name, were deck-hands; and we had a cook on the deck. I & the deck-hand were together. I am twenty-three years old. The other deck-hand was older than I. I did not think there would be a collision till after they blew the first whistle; then I thought it looked very much like it. I was aft the pilot house, on the upper deck, when I first saw the
109 Columbia. I staid there till the collision. When I first saw her I think we were opposite pier 1, or below. She was then opposite pier 2, as nigh as I can tell. When we were about the middle of the river I suppose we were half a mile from the docks. The Columbia was then, I should judge, 400 or 500 yards off from the docks. From her to us was, I should judge, 300 or 400 yards—not so far as from her to the docks. The first whistle was what first called my attention to her, I think. From that time, I think, the Columbia worked to the eastward. From that time to the collision it was, I judge, from five to eight minutes, I think.

Q. If at that time the Jersey Blue had stopped, would not she have gone under the Columbia's stern?

A. I don't know whether we would or not. The Columbia was heading more towards the Jersey shore at that time. I said that at that time the Columbia was straightening down the river.

Q. How far down the river did the Columbia go from pier 2, where you first saw her, before the collision?

A. Near a quarter of a mile, I guess.

Q. How far did the Jersey Blue run in that time.

A. I would not say exactly. I do not think we were going as fast as she was. I suppose we were going six or seven miles an hour, as we came across the river.

110 Q. Do you think that it would have been no change of the steamer's course to have gone two or three hundred yards further west?

A. I do not think it would as long as she was swinging round. If she had gone her course she would have gone clear of us. I mean by going her course, if they had not swung her round so much further; if they

steadied her first off, when we blew the whistle. I think it was her change of course to east, after I saw her, caused the collision. I think our bow did not come against the steamer's bow; it might have touched.

EDWARD H. TAYLOR.

Sworn to before me, this 6th day of February, 1866.

[L. S.] F. A. WILCOX,
Notary Public.

(Endorsed:) U. S district court. The propeller "Jersey Blue," her tackle, &c., ads. Paul Spofford; James H. Bunting, *vs.* the steamship "Columbia," her tackle. Deposition of E. H. Taylor. Beebe, Dean & Donohue, proctors of "Jersey Blue."

111 U. S. district court.

THE PROPELLER JERSEY BLUE, HER TACKLE, &C., *ads.* PAUL SPOFFORD.

JAMES H. BUNTING *vs.* THE STEAMSHIP COLUMBIA, HER TACKLE, &C.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Peter Hammond of said district, being duly sworn, says:

That he has resided in and about New York for ten years. I was standing on pier 4, North River, when the Columbia sailed on the day of the collision with the Jersey Blue; she went from the south side of the pier; there was very little ice; it extendad seventy-five feet from the piers, and then there were scattering pieces out for five or 600 yards, but of no moment. The Columbia went out straight until she got clear of the dock, and then swung down the river. When opposite pier 1, I should think she was heading for about Bedloe's Island, and about three hundred yards from the pier, more or less, and swinging. I did not see the vessels come together, but I saw the ship roll and the wheel stop; at that time she was heading to Governor's Island. The reason I could not see the collision was because the Jersey Blue was on
112 the opposite side of the ship. I saw no diminution of her speed up to the time I saw roll; the collision took place a little below Castle Garden, and probably 600 yards from the line of the piers. I saw the Jersey Blue before the vessels came together; when I first saw her was just about the time the Columbia started. I could not say how far she was off the piers, but she was not quite on a range between pier 4 & Gibbet Island, heading about east-southeast, evidently bound for the East River.

Q. Suppose the Columbia had kept straight out into the river, say to the middle, before she turned down, where would that have carried her in reference to the Jersey Blue, and the Jersey Blue kept on.

A. She would have gone some hundred yards under stern.

Q. Was there anything to prevent the Columbia's taking that course?

A. Nothing that I saw.

Q. Would not that, in your judgment, have been her proper course under the circumstances?

A. In my judgment it would have been her proper course to have gone straight out in the river; she might have gone down as she did, and stop and let the Jersey Blue go ahead of her.

Q. Before the collision, did the Jersey Blue pass out of your sight?

113 A. She did. I could see her masts over the Columbia.

Q. Before she passed out of your sight, did you see whether her headway was stopped?

A. I did not notice.

Q. The Jersey Blue, bound to the East River as she was, would or not have been out of her course to have gone under the Columbia's stern?

A. Under the circumstances it would; she was bound to the eastward, and it would have carried her out of her course. I heard no whistle.

Q. If the Columbia intended to pass across the bows of the Jersey Blue, should she have given any signal; and, if so, what?

A. She should have given two whistles.

Q. Taking the positions of the two vessels, the one bound to Charleston, and the other to the East River, was it or not good navigation for the Columbia to have attempted & persisted in crossing the bows of the Jersey Blue?

(Obj. to.)

A. It was bad judgment; porting her helm would have avoided the collision.

Cross-examined:

When the Columbia started, I stood abreast of her wheel. I stood there till she began to move out of the slip; then I went to the end of the dock. I staid there till the collision. I was looking about and doing nothing. There were no vessel in the river off & below pier 4, except these two. The tide was ebb.

114 Q. And as she went out that would carry her down the river, would it not?

A. The tide did assist her helm to carry her down the river. I have seen these steamers go out of there frequently.

Q. Was there anything that attracted your attention in the way she went out?

A. Yes, sir.

Q. What was it?

A. I wanted to see how the Captain got along getting out.

Q. Anything else?

A. I thought he was pretty well given up, and I wanted to see how he got along.

Q. Was there anything else?

A. There was a passenger aboard that I knew, and I was shaking my hand to see him off. I saw the Jersey Blue before the Columbia got out of the slip. There was a great many people on the dock. I can't say where I was standing when I first saw the Jersey Blue; she was then in the river. I knew the boat by sight. As the Columbia went out, I did not watch the Jersey Blue all the time. When the Columbia was abreast of pier 1, the Jersey Blue was then eastward of a line where I was standing to Gibbet's Island. As I looked at the Columbia then, I saw the Jersey Blue to the right.

115 Q. Would it have been out of the Jersey Blue's course to have gone a hundred & fifty feet north of the place of the collision?

A. I could not say.

Q. If the Jersey Blue had starboarded her helm when you saw the Columbia off pier "1," would there have been any difficulty in her going 150 feet further north than she did go?

A. On some vessels a starboard wheel might have cleared; on other

it would not. It is my impression that the Jersey Blue is too large to have accomplished it.

Re-direct:

At the time the Columbia was abreast of pier "1," the Jersey Blue was about abreast of her, off in the river.

Re-cross:

I should judge the vessels were then 300 or 400 yards apart.

PETER HAMMOND.

Sworn & subscribed Feb'y 6th, 1866, before me, at Jersey City.

A. S. JACKSON,
U. S. Com'r for the Dist. of N. J.

(Endorsed:) U. S. District Court. The Jersey Blue, her tackle, &c., ads. Paul Spofford. James H. Bunting vs. the steamship Columbia, her tackle, &c. Deposition of Capt. Hammond. Beebe, Dean & Donohue, proctors.

116

117 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on the fourth day of April, in the year of our Lord one thousand eight hundred and sixty-seven:

Present, the Honorable Samuel R. Betts, district judge.

JAMES H. BUNTING
vs.
THE ST'SHIP COLUMBIA, HER TACKLE, &C.

This case having been heard on the pleadings and proofs, and argued and submitted on briefs and points by the advocates for the respective parties, and due deliberation being had in the premises, it is now ordered, adjudged, and decreed by the court that the libel filed in this action be, and the same is hereby, dismissed, with costs to be taxed against the libellant.

And it is further ordered that, unless an appeal be taken to this decree within the time limited and prescribed, by the rules and practice of this court, that the stipulators for libellant's costs pay into the registry of the court the amount of their stipulation, & that the clerk distribute the proceeds in satisfaction of the taxed costs.

SAM'L R. BETTS.

118 (Indorsed:) Vol. 16, No. 18. United States district court for the southern district of New York. James H. Bunting vs. the st'r Columbia, her tackle, &c. Beebe, Dean & Donohue, proctors for lib'l't. Final decree. Libel dismissed with costs.

Filed the 4th day of April, 1867.

119 U. S. district court.

JAMES H. BUNTING
vs.
THE STEAMSHIP COLUMBIA, HER TACKLE, &C.

Please to take notice that the libellant herein hereby appeals to the

circuit court of the United States, for the second circuit, from the decree entered in this action.

Dated April 15, 1867.

Yours, &c.,

BEEBE, DEAN & DONOHUE,
Proctors for Lib'l't.

BENEDICT, BURR & BENEDICT,
Proctors for Cl'm'ts.

GEORGE F. BETTS, Esq., *Clerk.*

(Endorsed:) U. S. district court. 16—18. James H. Bunting vs. the steamship Columbia. Notice of appeal. Beebe, Dean & Donohue, proctors. Rec'd April 15, 1867. Filed April 15, 1867. To Geo. F. Betts, clerk.

120

121 Circuit court of the United States of America for the southern district of New York, in the second circuit.

JAMES H. BUNTING, libellant, appellant,
vs.
THE STEAMSHIP COLUMBIA, HER TACKLE, &c.—Paul Spofford, cl'm't, appellee.
} Bond for costs on appeal.

Know all men by these presents that we, James H. Bunting & Henry M. Lockwood, are held and firmly bound unto the above-named claimant & appellee in the sum of two hundred & fifty dollars, to be paid to the said claimant, for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the fourteenth day of May, in the year of our Lord one thousand eight hundred and sixty-seven.

Whereas the above-named libellant hath prosecuted an appeal to the circuit court of the United States for the southern district of New York, in the second circuit, to reverse the decree rendered in the above-entitled suit, by the judge of the district court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such, that if the above-named libellant shall prosecute his appeal to effect, and answer all damages and costs if he fail to make his appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

JAMES H. BUNTING, [L. S.]
By HARVEY M. LOCKWOOD.
HARVEY M. LOCKWOOD. [L. S.]

Sealed and delivered, and taken and acknowledged, this 14 day of May, 1867, before me.

JOHN A. OSBORN, *U. S. Com'r.*

122 UNITED STATES OF AMERICA,
Southern District of New York, ss:

Harvey M. Lockwood, being duly sworn, deposes and says, that he resides in Brooklyn, in the eastern district of New York; that he is worth the sum of five hundred dollars, over and above all his just debts and liabilities.

HARVEY M. LOCKWOOD.

Sworn to this 14th day of May, A. D. 1867, before me.
JOHN A. OSBORN, *U. S. Com'r.*

(Indorsed:) Vol. 16, page 18. U. S. circuit court. James H. Bunting, li'bt, appellant, vs. the steamship Columbia, her tackle, &c.—Paul Spofford, cl'm't, appellee. Bond for costs on appeal. Beebe, Dean & Donohue, appellant's proctor.
Filed this 14" day of May, 1867.

123 Circuit court of the United States for the southern district of New York, in the second circuit.

JAMES H. BUNTING, libellant & appellant,
vs.
THE STEAMSHIP COLUMBIA, HER TACKLE, &c.—Paul Spofford & others, claimants & appelles.

To the Honorable Samuel Nelson, judge of the circuit court of the United States for the southern district of New York, in the second circuit:

The petition of James H. Bunting, of said district, respectfully states that on the day of one thousand eight hundred and he filed his libel in the district court of the United States for the southern district of New York, against the steamship "Columbia," her tackle, apparel, and furniture, claiming damages for collision, exceeding the sum of fifty dollars, and praying, among other things, that said steamship might be condemned to pay the demands of the libellants and costs;
124 upon which process was duly issued and executed; and issue was thereupon duly joined in said action, and such proceedings were thereupon afterwards had that by the judgment and decree of the said district court, the libel of the libellant against the said steamship was dismissed with costs.

That in the judgment and decree aforesaid there was manifest error, in this, to wit, that the decree in the said cause was in favor of the said steamship, and against the libellant, whereas the said steamship should have been condemned to pay the damages of the libellant and costs.

Wherefore the libellant appeals from the said decree, and every part thereof, and prays that the cause may be heard anew on the pleadings and proofs in the court below, and upon such new proofs and allegations as may be produced in the said circuit court, and that the record and proceedings in said district court may be returned to said circuit court, and that the said decree and every part thereof may be reversed and annulled, and that he may have a decree condemning the said
125 steamship to pay the demands of the libellant and costs.

And he will ever pray.

BEEBE, DEAN & DONOHUE,
Proctors for Appellant.

(Endorsed:) 16—18. United States circuit court. James H. Bunting, libellant & appellant, ag't the steamship Columbia, her tackle, &c.—Paul Spofford & others, claimants, appellees. Petition of appeal. Beebe & Donohue, proctors.
Filed April 14, 1868.

126

127 At a stated term of the circuit court of the United States of America, for the southern district of New York, in the second

circuit, held at the city hall in the city of New York, on Friday, the 13th day of Nov., in the year of our Lord one thousand eight hundred and sixty-eight:

Present, the Honorable Samuel Nelson, an associate justice of the Supreme Court of the United States.

JAMES H. BUNTING
vs.
THE ST'BOAT COLUMBIA.

The appeal from the decree of the district court coming on to be heard, Mr. C. Donohue reads testimony from the apostles, and is heard on part of libellant.

128

129 At a stated term of the circuit court of the United States of America, for the southern district of New York, in the second circuit, held at the city hall in the city of New York, on Monday, the 16 day of Nov., in the year of our Lord one thousand eight hundred and sixty-eight:

Present, the Honorable Samuel Nelson, an associate justice of the Supreme Court of the U. S.

JAMES H. BUNTING
vs.
THE ST'BOAT COLUMBIA.

This cause being still on hearing, Mr. C. Donohue continues his argument on the part of the appellant. Mr. E. C. Benedict is heard on the part of the claimant. Mr. C. Donohue is heard in reply.

Cur. ad. vult.

130

131 At a stated term of the circuit court of the United States of America, for the southern district of New York, in the second circuit, held at the city hall in the city of New York, on Saturday, the 28th day of Nov'r, in the year of our Lord one thousand eight hundred dred and sixty-eight:

Present, the Honorable Samuel Nelson, an associate justice of the Supreme Court of the U. S.

JAMES H. BUNTING & AL.
vs.
THE STEAMER COLUMBIA.

This cause coming on to be heard on the appeal herein, in its regular order, on hearing E. C. Benedict, esq., in support of the decree, and on behalf of the appellee, and Charles Donohue for the appellants, after due deliberation, it is ordered, adjudged, and decreed that the judgment herein be reversed, and that a decree be entered in favor of the libellants, and that a reference be had herein to Kenneth G. White, esq., to ascertain and report the amount of damages sustained by the libellants and appellants by the said collision.

S. NELSON.

132

133 Circuit court of the United States for the southern district of New York.

JAMES H. BUNTING
vs.
THE ST'SHIP COLUMBIA, HER TACKLE, &c. } Commissioner's report.

In pursuance of a decretal order made in the above-entitled cause on the 28 day of Nov'r, in the year of our Lord one thousand eight hundred and sixty-eight, by which, among other things, it was referred to the undersigned, one of the commissioners of this court, to ascertain and compute the amount due the libellant for damages, and to report thereon to this court with all convenient speed:

I, Kenneth G. White, the commissioner to whom the matter was referred, do report that I have been attended by the proctor for the libellant & claimants, and have taken and examined the testimony offered in support of the libellant's claim, and do find that there is due to the libellant for damages sustained by the collision the sum of $951 95, and interest on the same from Feb'y 1st, 1860, amounting to $604 22, and for demurrage, the sum of $520 00, amounting in all to the sum of two thousand & seventy-six $\frac{15}{100}$ dollars.

Dated the 23d day of Feb'y, A. D. 1869.

All which is respectfully submitted.

KENNETH G. WHITE,
U. S. Commissoner.

BEEBE, DEAN & DONOHUE,
Proctor for Libellant.

134 (Indorsed:) Vol. , No. . United States circuit court for the southern district of New York. J. H. Bunting vs. the st'ship Columbia, &c. proctor for libel't. Commissioner's report.

Filed the 25th day of Feb., 1869.

135 At a stated term of the circuit court of the United States of America for the southern district of New York in the second circuit, held at the city hall in the city of New York, on , the 25th day of Febuary, in the year of our Lord one thousand eight hundred and sixty-nine:

Present, the Honorable Samuel Nelson, an associate justice of the Supreme Court of the United States.

JAMES H. BUNTING, lib'll'ts & appellants,
vs.
THE STEAMSHIP COLUMBIA, HER TACKLE, &c.;
Paul R. Spofford, cla'm't & appellee.

On reading and filing the report of Kenneth G. White, esq., the commissioner to whom was refered the matter to ascertain and report the damages sustained by the libellant for the collision mentioned in the pleadings the above-entitled action, on motion of Beebe, Dean & Donohue, proctors for the libellant & appellants, it is ordered that the said report be, and the same is hereby, in all things confirmed, and it is ordered that the libellant and appellants recover judgment for the sum of two thousand and seventy-six $\frac{15}{100}$ dollars, besides his costs, to be taxed, and that the said steamship Columbia, her tackle, apparel, and furniture be condemned therefor.

136 And, on like motion, it is ordered that unless an appeal shall

be taken from the decree within the time limited by the rules and practice of this court, that the libellants have execution against Paul Spofford, as principal & claimant, and Paul N. Spofford, surety, to satisfy said decree.

S. NELSON.

Endorsed: Final decree. Beebe, Dean & Donohue, pr. for app'l'ts. Filed Feb. 25, 1869.

137 Circuit court of the United States for the southern district of New York, in the second circuit.

THE STEAMSHIP "COLUMBIA," HER ENGINES, &c.; Paul Spofford & others, claimants & appellants, *ads.* JAMES H. BUNTING, libellant & appellee.

To the honorable the Supreme Court of the United States:

The appeal of the above-named Paul Spofford & others respectfully shows—

That in or about the month of Sept., 1865, the above-named James H. Bunting filed his libel in the district court of the United States for the southern district of New York against the steamship Columbia, her engine, tackle, &c., in a cause civil & maritime, for the recovery of damages alleged to have been sustained by him to the steam-propeller "Jersey Blue," by collision with the said steamship Columbia in the harbor of New York, & that process issued upon said libel, & said steamship Columbia was duly bonded & discharged upon the claimants filing
138 their claim & stipulations, & the claimants thereafter filed their answer to said libel, & such proceedings were had in the said cause, that on the 4 day of April, 1867, a final decree was made & pronounced therein by said district court, whereby it was adjudged & decreed that the libel of the libellant be dismissed with costs.

That, after such final decree, the libellant & appellee duly appealed therefrom to the circuit court of the United States for the southern district of New York, & the said cause was thereby removed into the said circuit court & there tried anew, & such proceedings were had in the said circuit court that afterwards, & on the 23d day of February, 1869, the said circuit court made a final decree in said cause, whereby it was decreed that the libellant recover of the said steamship "Columbia," her engine, &c., the sum of two thousand four hundred & eighty $\frac{64}{100}$ dollars, being the amount of the damages by him sustained by reason of the collision in the pleadings mentioned, & his costs, as taxed; which said decree of the said circuit court is, as these appellants are advised, erroneous, & ought to be reversed.

Wherefore these appellants appeal from the whole of said decree of said circuit court to the Supreme Court of the United States, & respectfully pray that the said decree of the said circuit court, & the libel,
139 answer, pleadings, depositions, evidence, & proceedings in the said cause may be sent to the Supreme Court of the United States without delay, & that the said Supreme Court will proceed to hear the said cause anew, & that the said decree of the circuit court, & every part thereof, may be reversed, & a decree made dismissing said libel, with costs, or such other decree as to the said Supreme Court shall seem just.

BENEDICT, BURR & BENEDICT,
Proctors for Appellants.
E. C. BENEDICT, *Advocate.*

140

141

142 (Indorsed:) U. S. circuit court. The steamship "Columbia," &c., ads. James H. Bunting. Appeal. Benedict, Burr & Benedict, app'ts' proct's, 76 Wall st.
Filed M'ch 22, '69.

143 Circuit court of the United States of America for the southern district of New York, in the second circuit.

JAMES H. BUNTING, lib'l'nt & appellee,
vs.
THE ST'SHIP "COLUMBIA," HER TACKLE, &c.;
Paul Spofford & others, cl'nts & appellants,
} Bond for costs.

Know all men by these presents, that we, Francis M. French, of Brooklyn, & Gardiner S. Spofford, of New York, are held and firmly bound unto the above-named James H. Bunting in the sum of fifty-five hundred dollars, to be paid to the said James H. Bunting, for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the 19th day of March, in the year of our Lord one thousand eight hundred and sixty-nine.

Whereas the above-named claim'ts & appellants have prosecuted an appeal to the Supreme Court of the United States, to reverse the decree rendered in the above-entitled suit by the judge of the circuit court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such, that if the above-named cl'nts & appellants shall prosecute the appeal to effect, and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

F. M. FRENCH. [L. S.]
GARDNER S. SPOFFORD. [L. S.]

Sealed and delivered, and taken and acknowledged, this 19 day of M'ch, 1869, before me.

EDWARD L. OWEN, *U. S. Com'r.*

144 UNITED STATES OF AMERICA,
Southern District of New York, ss:

Francis M. French, of Brooklyn, & Gardiner S. Spofford, of New York, being duly sworn, each depose and say that he is worth the sum of eleven thousand one hundred dollars over and above all his just debts and liabilities, & exclusive of property exempt by law from execution.

F. M. FRENCH.
GARDINER S. SPOFFORD.

Sworn to this 19 day of M'ch, A. D. 1869, before me.
[L. S.] EDWARD L. OWEN, *U. S. Com.*

We approve of the within bond.
M'ch 19, 1869.

BEEBE, DONOHUE & COOKE,
Pr. for Appl'nts.

(Indorsed:) Vol. . Page . U. S. circuit court. James H. Bunting, lib'l't & appelee, vs. the st'ship Columbia—Paul Spofford & others, cl'nts & appl'nts. Bond for damages & costs.

The within bond is approved as to form and amount, and the sufficiency of the sureties.
M'ch 20, 1869.

SAM'L BLATCHFORD, *Dist. Judge.*

Filed this 22 day of M'ch, 1869.

145 By the Honorable Samuel Blatchford, one of the judges of the circuit court of the United States for the southern dist. of New York, in the 2d circuit, to James H. Bunting:

Whereas Paul Spofford, Thomas Tileston, Michael Berry, George V. Perry, J. Wintringham, Edward Dodge, Henry R. Worthington, John T. B. Maxwell, James Adgar, Charles H. West, William Aiken, Robert Pringle, Oliver H. Middleton, R. V. Izzard, Edgarton & Richards, Joseph D. Aiken, C. L. Burckmyer, Henry Missroon, M. E. Carrers, James E. Legane, T. D. Wagner, R. W. Disher, Robert Chisolm, J. Julian Chisolm, & Henry Bischoff, claimants of the steamship Columbia, her engine, tackle, &c., have lately appealed to the Supreme Court of the United States from a decree lately rendered in the circuit court of the United States for the southern district of New York, in the 2d circuit, made in favor of you, the said James H. Bunting, against the said steamship
146 Columbia, her tackle, &c., and have filed the security required by law:

You are, therefore, hereby cited to appear before the said Supreme Court, at the city of Washington, on the first Monday of Dec'r next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of New York in the southern district of New York in the 2d circuit, the 20 day of March, in the year of our Lord 1869.

SAM'L BLATCHFORD,
District Judge.

Endorsed: The st'ship Columbia, &c., ads. James H. Bunting. Citation. Benedict, Burr & Benedict, appl'ts' proctor.

Personal service of the within citation is admitted.
M'ch 22, '69.

BEEBE, DONOHUE & COOKE,
Pr. f'r Appellee.

Filed M'ch 22, 1869.

Supreme Court

OF THE UNITED STATES.

THE STEAMSHIP "COLUMBIA,"

vs.

JAMES H. BUNTING.

APPELLANT'S BRIEF.

E. C. BENEDICT,
Counsel for Appellant.

NEW-YORK:
GEORGE F. NESBITT & CO., PRINTERS AND STATIONERS,
CORNER OF PEARL AND FINE STREETS.

1870.

Supreme Court

OF THE UNITED STATES.

THE STEAMSHIP "COLUMBIA"

vs.

JAMES H. BUNTING.

Appellant's Brief.

E. C. BENEDICT,
Counsel for Appellant.

ABSTRACT OF PROCEEDINGS.

This is a cause of collision between the steamer "Columbia," of the Charleston line of packets, and the Propeller "Jersey Blue," in the harbor of New-York. There are cross actions.

The libel on the part of the "Columbia" was filed January 10, 1860 (fol. 19). It was read on the trial as the answer to the other libel (fol. 22).

The libel on the part of the "Jersey Blue" was filed February 4, 1860 (fol. 1).

The causes were heard together in the District Court, January 19, 1867 (fol. 23).

In the case against the "Jersey Blue" there was a decree for the libellant, with a reference to ascertain the damages.

In this case the libel was dismissed with costs, April 4, 1867. *Vide* the Decree (fol. 117).

The claimants appealed this cause to the Circuit, and the decree was reversed with an order of reference. *Vide* Decree (fol. 131) and the final decree for $2,480.64 (fol. 135).

From that decree the claimants appealed to this Court. *Vide* the Appeal (fol. 137), Citation (fol. 145).

The proceedings in the other case are suspended till the ultimate result in this case shall be ascertained.

Statement of the Case.

On the 7th day of January, 1860, the side-wheel steamer "Columbia," bound to Charleston, left her berth, pier No. 4, in the North River, in the harbor of New-York, the well known pier Charleston, at the usual sailing time of that line. "The tide was a strong ebb" (fol. 25, 57). "The river on that side was well blocked with ice—heavy ice" (fol. 37, 38), which was running for 200 yards out into the river (fol. 25), beyond which it was clear of ice (fol. 29). She lay on the lower side of the pier (fol. 25). They worked her out by hand from the dock with difficulty, the ice was so heavy (fol. 39, 40). In going out, it was impossible to get out straight. In the slip, and for her length outside, she will not mind her helm (fol. 25, 26), and as soon as her stem passes the end of the pier the pressure of the strong ebb tide and the heavy ice inevitably forced her bows to the southward, and as soon as she got clear of the pier "the heavy mass of ice and the current took her down bodily," and she drifted down stream (fol. 39, 45). Then they hooked on the engine (fol. 39, 47), and her helm was put astarboard (29, 31), and she was headed down the bay in the midst of the ice, moving slowly for fear of breaking her wheels (fol. 47). The helm was then steadied (fol. 31). She then saw the steam propeller "Jersey Blue" over her starboard quarter, considerably astern, coming across the river diagonally from Jersey City (fol. 26). Jersey City is above pier 4, and Hoboken still further up. The "Jersey Blue" was then two-thirds of the width of the river from

New-York—half a mile off. She was about twice as far from the place of collision as the "Columbia," and was going about twice as fast. The "Columbia," impeded by the ice, was going three or four knots (fol. 41). The "Jersey Blue" was going rapidly (fol. 28), seven or eight knots (fol. 25, 59, 83), probably eight, as six or seven was her average speed (59), and she had now a strong ebb tide.

The "Jersey Blue" kept on without changing her course or slacking her speed till a few moments before the collision, when she stopped and backed her machinery, which brought her larboard side directly under the starboard wheel of the "Columbia," which struck her on her deck on her larboard side, a little forward of midships, and went off on the same side about 15 or 20 feet from the bows, causing considerable damage to both vessels.

The "Columbia" made no change before the collision, except that she steadied her wheel for a little while, (fol. 31,) and when she saw the danger was imminent, she starboarded her helm again, (fol. 26,) and swung to the eastward inside of Governor's Island, (fol. 26.) At the time of the collisionshe was just emerging from the ice, opposite Castle Garden, and a little below it, and heading inside Governor's Island, about the middle of the island, (fol. 27.)

The witnesses from the "Jersey Blue" say they blew one whistle twice, but it was not heard on the "Columbia," nor apparently anywhere else, as no other witnesses heard it. The pilot of the "Columbia" hailed the "Jersey Blue" "stop and back, we can't stop," (fol. 26, 54, 88, 96, 106,) at the distance of 600 or 700 feet, (fol. 30, 54, 88, 106.) The hail was heard, but not acted upon till within say 50 feet of the "Columbia," "might have been 100 feet—might not have been 50," (fol. 61,) too late to prevent the accident, and was done in a time and manner to cause the accident.

Backing her engine on a starboard helm threw her head out and stern in, which forced her sideways under the "Columbia's" wheel, (fol. 54, 66, 80, 89)

Points.

I.—All the rules of nautical conduct in the navigation of vessels are derived from the relative ability of the vessels to take measures of precaution or escape. It is the facility of manœuvering which throws upon one vessel the duty of active measures of prevention. The easiest and safest way is the true way—the law of safety is the paramount law. The vessel at anchor—the disabled vessel—the sailing vessel—the tug with a tow—the heavy laden vessel struggling against wind and tide, are privileged; and so is a vessel like the "Columbia," working slowly through a heavy mass of ice, in the current of a strong ebb tide. Special circumstances modify and control the general rule. (Art. 9, 13 Stat. at large, 61.) There is no rule of navigation which justifies a light, unincumbered steamer in running in broad daylight, "a beautiful fine day," (30,) at full speed under the bows or under the wheels of another steamer in full sight, creeping slowly along in heavy ice.

It was the duty of the "Jersey Blue" to give the "Columbia" abundant room to keep her course, so that both would certainly pass in safety. She could not suppose the "Columbia" was going under her stern. She might easily have ported her wheel in time, as her duty required, and as her whistling indicated she intended to do. There was no obstacle. Everything invited her to do so. It would give her a truer,

clearer and safer course into the East River, where she was bound. The master testifies, (fol. 51,) "I imme-"diately gave one whistle. Was that a distinct "whistle? It was a distinct one; I pulled the whistle-"rope myself. They did not reply to it. What was "that signal intended for? One distinct whistle is for "each vessel to pass to the right."

According to the rule he was to port his helm and go to the right. He did not port his helm, and he did not go to the right. He kept on his course "straight as he could steer." (Fol. 51.) If he had ported and gone to the right there would have been no collision.

But his whistles were not heard. The noise of the ice against our sides may have prevented us hearing. They were no whistles to us, and we could not reply. Then his duty was to blow several short and rapid whistles (these are whistles of alarm,) and *to stop*. But he did not do so; he blew another single whistle and kept on till the "Columbia" hailed that she could not stop. Then for the first time they *backed*, which alone could *stop the boat's* headway, and her helm being astarboard, backing down, forced her under the wheel of the "Columbia."

When she blew the first whistle she was only two hundred yards (one minute) distant, quite too late for the "Columbia" to act upon it.

II.—The Circuit Court says: "We think it clear on the weight of the proofs that the propeller was below the "Columbia" in the river and near the east shore when the latter came out of her dock and began swinging round to take her course down the river."

Not one of the witnesses on the "Jersey Blue" saw the "Columbia" when she came out of her dock nor

before she was as far down as Pier 2, when, perhaps, (being "worked by hand" and "drifting,") half the time between her starting and the collision had elapsed, and from their testimony the inference is clear that at that time the "Jersey Blue" was two-thirds over towards Jersey City, and above the "Columbia." The two vessels started at about the same time.

It is impossible to place the "Jersey Blue" anywhere near the east shore and below the "Columbia" at the time she came out of the dock, and make the collision possible. The "Columbia" would never have overtaken her.

CHADSEY, the captain, says when he first saw the "Columbia" the "Jersey Blue" was below pier No. 1, 200 or 300 yards from the end of the pier, on a line with the end of the pier, (fol. 50,) that is, so far below the pier No. 1—very near the place of collision.

At that time the "Columbia," he says, was swinging rapidly. (Fol. 51.) This was her swinging when she starboarded at the last moment, (fol. 53, 31,) so as to be heading for the middle of Governor's Island. (Fol. 27.) It certainly cannot refer to her swinging at Pier 4, at which time no one pretends that the "Jersey Blue" was below Pier 1, and if she was there at that time the collision never could have taken place.

ASHFORD, the pilot, does not allude to the subject, except to say that the "Jersey Blue" was coming from Elizabethport and not from Jersey City, and that the collision was opposite the Staten Island Ferry pier, which is in the East River. It is plain his palsy had destroyed his memory.

TAYLOR, the deck-hand, says that when he first saw the "Columbia" the "Jersey Blue" was in the *middle*

of the river, (fol. 106,) and the "Columbia" was opposite Pier 2, bound down, which was of course some time after her swinging to come out at Pier 4.

HAMMOND, on the pier, says: "at the time the 'Columbia' was abreast pier *one*, the 'Jersey Blue' was about abreast of her *off in the river*." (fol. 115.) If she was only abreast of her then, she was behind her at pier 4. The expression "off in the river" does not mean near the east shore.

GREEN, the engineer, says, (fol. 77,) he was in the engine-room by the engine. "Was you looking out any of the time?" "No, sir, not until I heard the whistle blow." "Which door did you look out of?" "The port door." "How far should you think the 'Jersey Blue' was from the New-York side?" "As near as I can recollect I think two-thirds of the way across the river." "About opposite what pier or place?" "Between pier 1 and Castle Garden." This was after the whistle was blown—a short time before the collision, when the "Jersey Blue" was crossing the bows of the "Columbia," and they were about a length apart.

KELSO, the pilot of the "Columbia," who the Judge thinks strengthens his view, says: "I saw the 'Jersey Blue' soon after we got out into the river; she was then coming from the direction of Jersey City. To the best of my knowledge she was two-thirds across from the New-York shore (fol. 26).

"When I saw her our vessel was 100 yards out from the end of the pier. When I first saw her she was 'coming' from Jersey City.

"When I first saw the 'Jersey Blue' I think she was half a mile from the 'Columbia' (fol. 29). I am

under the impression she was above us at the time" (fol. 29). These statements of the witnesses referred to by the Judge, do not seem to confirm his view, but clearly to disprove it.

But besides these witnesses whom the Circuit Judge specifies there are these three men on the "Columbia." Hutchinsen, the engineer (fol. 37), and Barr, the mate (fol. 95), and Campbell, the 2d mate (fol. 100).

HUTCHINSEN says (fol. 40): "The 'Columbia' was more south than the 'Jersey Blue' when he first saw her 200 yards off," and again on his cross-examination (fol. 43) he says: "If the 'Columbia' had gone straight out, the 'Jersey Blue' would have been on his right—on his starboard side as if coming from Hoboken."

BARR, the mate, did not observe the "Jersey Blue" till near the time of collision when Kelso hailed (fol. 99). He says (fol. 95): "The first I saw of the 'Jersey Blue' she was, I should judge, about 300 or 400 yards from us," 'coming' from the Jersey side; she was 'coming,' not 'going.'

CAMPBELL, the second mate, says, when he first observed the "Jersey Blue" she was coming "from somewhere above Pier 4. Our vessel was then between Pier 1 and Castle Garden. They were about 500 or 600 yards apart" (fol. 101–2).

I have not found any testimony whatever going to show that the propeller was below the "Columbia" and near the east shore when the "Columbia" came out of her dock, and the weight of proof seems to me quite otherwise, and to establish the fact that the "Columbia" was ahead and had the right of way according to Art. 17.

"ART. 17. Every vessel overtaking any other ves-

sel shall keep out of the way of the said last mentioned vessel."

Act of April 29, 1864, Chap. 69.

This rule must prevail unless there be special circumstances to excuse its application. The only special circumstances are the ice on the one hand and the unobstructed course on the other, which are in favor of the "Columbia," and would excuse her if it were doubtful whether she were actually ahead.

Probably the Judge confounded the swinging of the "Columbia" a few moments before the collision when she starboarded in her attempt to escape the "Jersey Blue" (fol. 26) with her swinging up at Pier 4, when she came out.

III.—The same result follows inevitably from the positions, which are beyond dispute on the proofs.

First. The "Jersey Blue" left the coal dock, Jersey City, and went as straight as she could steer, for the East River.

Second. The "Columbia" left Pier 4, and went down the river, about 100 yards out from the piers.

Third. They collided at the meeting of these two courses, on an angle of 60°, which was off Castle Garden, a little below it, about 300 yards out from the shore.

KELSO, the pilot of the steamer, says (fol. 27):

"At the time of the blow the "Columbia" was heading about for the middle of Governor's Island.

We were at the time very near abreast of Castle Garden; a little below it, and about 200 yards out in the river, about the same as the ice was."

CHADSEY, the captain of the "Jersey Blue, says (fol. 53): The collision took place about off the Battery, inside the end of the piers; about opposite to Castle Garden, inside the end of the range of piers.

GEER, the engineer of the "Jersey Blue" says (fol. 79): the collision took place "somewhere in a line with Pier 1, or near it. Below Pier No. 1, about off Castle Garden, well in."

ASHFORD, pilot of the "Jersey Blue," says (fol. 89): "I could not say positively. I could not judge. It was off the Staten Island Ferry Pier."

BARR, the mate of the "Columbia" says (fol. 96): "at the time of the collision I think we were down somewhere between Pier 1 and Castle Garden, maybe a little further down. I should judge we were two or three hundred yards outside the lines of the piers."

CAMPBELL, second mate of the "Columbia" says (fol. 103): "We were between Pier 3 (1) and Castle Garden when the collision took place. Our vessel might have been off Pier 3, or half way between Pier 3 (1) and Castle Garden." This should be pier *one* judging from what he says a few lines before.

TAYLOR, a passenger on the "Jersey Blue" says (fol. 107). "The collision took place off Castle Garden, somewhere about 400 yards off." She went near half a mile down the river from Pier 2, I guess, (fol. 109)

HAMMOND, on the pier 4, says (fol. 112): "The collision took place a little below Castle Garden, and probably 600 yards from the line of the piers."

The "Columbia," after she hooked on, was going three or four miles an hour, as proved by Hutchinson, the engineer, and her distance was about 500 yards, which would take her from her starting seven minutes —three minutes while she was worked by hand and four minutes after she was hooked on.

The "Jersey Blue" was going seven or eight miles an hour. Then she would run about 1,500 yards in seven minutes. This places her near the coal docks, several hundred yards above the "Columbia," when the "Columbia" came out of her dock. If the "Jersey Blue" started ahead of her she must have kept ahead of her, and there could have been no collision.

IV.—We therefore insist that the "Jersey Blue" was in fault, because,

1. Being the overtaking vessel and free from any obstruction and embarrassment, she did not keep out of the way of the "Columbia," but ran directly under her wheel without changing her course or stopping, according to Art. 17, under the Act of Congress.

2. Having blown her whistle as an indication that she was going to the right, she did not port her helm, nor go to the right according to Rule XI. of the Regulations.

   The idea of some of those crafts that they have only to blow a whistle and keep on, running into anything in their way, is a false and pernicious one, which the Court has more than once rebuked.

3. Having no answer to her whistle, she did not slow to mere steerage-way in time to prevent a collision, according to Rule III. of the Regulations.

4. Seeing that a collision was probable if both vessels kept on their course, (fol. 57, 83,) when *two-thirds of the way across* (fol. 83,) when the "Jersey Blue" was hailed "*some way off*," "*six or seven hundred feet off*," (fol. 30, 54, 88, 106,) she did not port her helm, which in twenty seconds would have rendered a collision impossible, without any loss of time or real deviation from her course into the East River.

5. Seeing the "Columbia" in full sight, creeping along in the heavy ice in peril of collision, she did not show the least care or caution or feeling of responsibility, till the very last moment, when the collision could not be prevented, although the means to prevent it were entirely in her power without peril to herself.

6. Her proper and safe course into the East River was further to the southward and westward—not running so near the point of the Battery as to be coming in just below Castle Garden.

V.—Nor was there any culpable negligence on the part of the "Columbia" which can justly charge her with a portion of the damages.

She was at all times where she had a right to be, and doing what she had a right to do. The Circuit Judge is quite mistaken in saying that she was out of her course to Charleston. She was on her direct

course. "Her course is just to go clear of Governor's Island, (fol. 31, 64). It was only on her final starboarding to escape the 'Jersey Blue' that she swung her head inside of Governor's Island," (fol. 26).

She could not suppose that the "Jersey Blue" was coming in just below Castle Garden where there is no pier, nor wharf, nor slip.

If we had heard her whistle, we should have supposed she was going down the bay on the right of us.

When she saw the "Jersey Blue" coming for her she starboarded to give more room, which would have prevented the collision if the "Jersey Blue" had kept on, but she stopped and backed, which brought her under our wheel without our fault.

The pilot testifies that there was nothing that he could have done to avoid this collision except "stopping the boat awhile before and letting her drift with the tide and ice wherever they would take her," (fol. 32), which certainly would not be prudent for a large passenger and freight boat bound out to sea.

BENEDICT & BENEDICT,
Proctors for Appellant.

E. C. BENEDICT,
Counsel.

Opinion of the Circuit Court.

UNITED STATES CIRCUIT COURT.—SOUTHERN DISTRICT.—APPEAL IN ADMIRALTY.—COLLISION.

JAMES H. BUNTING,

vs.

The STEAMER "COLUMBIA."

NELSON, C. J.—The collision occurred in this case between the Steamer "Columbia" and the Propeller "Jersey Blue," on the Hudson River, off the Battery, at Castle Garden, between 3 and 4 o'clock in the afternoon of the 7th January 1860. The propeller had left the coal dock at Jersey City, and was on her way across to enter the mouth of the East River, into which she was going. The "Columbia" had left her berth at Pier No. 4, on the New-York side, on her usual trip to Charleston, S. C. The tide was strong ebb at the time, and a good deal of broken ice in the river, extending from the piers on the New-York side for some six hundred feet. The "Columbia" after coming out of her

berth at Pier No. 4, and as soon as she had cleared the end of the pier, and her head struck the tide, swung round with it, this movement being aided also by starboarding her helm; and then descending the river along the east shore till she reached a point about opposite Castle Garden. encountered the propeller, the wheel of the "Columbia" striking her larboard side, doing very considerable damage. On the part of the "Columbia," it is insisted that the collision was occasioned by the fault of the propeller, in attempting to cross her bows on her way into the East River; and such would seem to have been the opinion of the Court below, as a decree was rendered for the "Columbia" dismissing the libel. The question depends very much upon the position of the propeller at the time the "Columbia" came out of her berth, Pier No. 4, and straightened down the river. It is claimed on her part, that at this time the propeller was higher up the river, and had advanced on her way only about one-third across toward the East River; and that in this relative position of the two vessels, it was the duty of the propeller to have crossed her stern, and not her bow, which movement might have been made with safety. On the part of the propeller, it is insisted that in her diagonal course from the Jersey shore to the East River, she had reached a point below the "Columbia" at the time she came out of her berth, and was two-thirds of the way across and opposite Castle Garden; that the "Columbia" was in fault in the attempt to pass between her (the "Jersey Blue,") and the east shore, when there was a clear and unobstructed channel west of her, and in a direct course to the sea. In the support of the position of the propeller, there is Chadsey, the captain; Green, the engineer; Ashford, the pilot; Taylor, a deck-hand, and Hammond, a witness standing on pier No. 4 at the time when the "Columbia" left the pier. And this view is rather strengthened than weakened by the testimony of the

pilot of the "Columbia." He says: "When I first saw the Jersey Blue she bore to the right of us, our starboard side to her port side. I am under the impression she was above us at the time; I cannot swear she was above; the boats were angling together." We think it clear on the weight of the proofs, that the propeller was below the "Columbia" in the river, and near the east shore when the latter came out of her dock, and began swinging round to take her course down the river; and that, instead of starboarding her helm, and thus bringing her on a course to cross the bows of the propeller, she should have ported and passed under her stern. The river was open to her to take this course, and it would have been the most direct one on her way out to sea on her voyage to Charleston. Decree reversed and decree for libellant.

For libellant, BEEBE, DONOHUE & COOKE; for claimant, BENEDICT & BENEDICT.

Union Printing House, Law Printers, 79 John Street.

U. S. Supreme Court.

James H. Bunting,

Appellee,

ads.

The Steamship "Columbia," her Tackle, &c., Paul Spofford *et al.*,

Claimants Appellants.

The libel of the "Jersey Blue" alleges that she having started from Jersey City, and while on her way to the East River from Jersey City, the "Columbia" started from her pier and kept swinging to the south until she hit us and ran over our vessel, as shown on the maps handed up.

The libel of the "Columbia," no answer being in the case for her, alleges, folio 20, *that the steamer having cleared the ice, which extended six to eight hundred feet from the dock, and beginning to head down the bay. * * The "Columbia" was headed more to the east, and her wheels stopped * * * the propeller ran into the "Columbia" head on, fol.*

It is seen by our libel that the "Columbia" was notified by us which way we intended to go, and that she *does not pretend that she attempted to notify us* until too late, and then not by whistle, as the law requires.

The point of collision was admitted by the counsel on the arguments below to be off Castle Garden, and in a range with the end of the piers.

First.—This collision occurred in 1860, January 11, (see "Columbia" Libel, folio 36, Art. Second). The pleadings state on the part of the "Columbia," *that the ice extended out* 600 *to* 800 *feet from the dock, and that the "Columbia" had cleared it when she commenced heading down.*

Now, this fact must be taken as true, as then recent, in fact it is made a part of her case, and the libellant, "Jersey Blue," was not bound to meet any case but this.

If this was needed to be confirmed, the fact that all her witnesses admit she could have kept out into the clear water, makes it out.

There being nothing to prevent it, and it being their advisable course, of course the pleading is correct.

As a matter of fact, when they started, the "Jersey Blue" had started and got about two-thirds on her way near the New York side, and, as they admit, one-third of the way across.

Thus it seems that the case presents a clear case of a vessel, the "Columbia," starting after another has taken her course, and so is bound to take proper precautions for a vessel already under way.

Our course and direction was well known to them.

Our courses was crossing one; there is but one side to the testimony on this point, and, as their right side was presented to us, they should have gone under our stern. See the rule; also "Corsica."

The "Columbia," notwithstanding that she started with a full knowledge of our having started (she ought to have seen it, and if she did not it is her fault), nevertheless kept from the start swinging down on the course she knew we ought and must take. See testimony.

It is beyond all question by the pleadings, and even

their testimony, that the "Columbia" had got out of the ice, extending at least 150 to 180 yards by the smallest estimation on the trial, when she headed down. Now, can the conclusion be resisted, that if she got out to that distance that she must have followed us to get into collision with us off Castle Garden, and in range of *the piers*, 150 *to* 180 *yards inside of her original position, and according to the pleadings on her part* 600 *to* 800 *feet?*

As matter of law, the "Columbia" violated distinct and settled principles in everything she did.

1. She had no look out.

2. She started out knowing, or she should have known, the course of a vessel in plain sight, and took no steps to avoid her.

3. The pilot regulations made it the duty of this vessel, if she wanted to go ahead of us, to blow two whistles; she gave no signal at all.

4. The rule requires that she should have stopped and backed; she did neither.

5. It was the nautical duty of the vessel then (p. 155, rule 1, etc., see p. 162), since made the law —see Stat. at Large (Vol. 13, p. 60, Art. 13, 14)— to take steps to clear us, having us on her starboard hand (see particularly p. 160), just such an approach as the "Columbia" contends.

6. She persistently follows us to 600 to 800 ~~yards~~ feet inside of her track to come in collision with us.

How is there any fault with the "Jersey Blue"? She had taken her course, and she saw them in time.

No one pretends that she made any move to embarrass the "Columbia."

She whistled, as the rule required.

When her whistle is not answered, she stopped and backed.

The pretence that our backing was in any way wrong is answered *by the fact they hailed us to do it.*

The only possible pretence of excuse that the "Columbia" *gives is embarrassment from ice*; this her answer (fol. 20) expressly contradicts, saying she had cleared the ice, and the further answer is apparently, if it is true, she was in ice, that she embarrassed herself unnecessarily, as she could have gone out farther, there being no necessity to keep in.

It seems the clearest case for a libellant ever presented to the Court.

The digest of the evidence seems to show these facts:

For the "Columbia:"

John T. Kelso.—The ice was 200 yards out; "Columbia" headed straight out; saw us good distance off, two-thirds of way to Jersey; the "Columbia" then headed for Ellis Island; "Jersey Blue" headed for East River, when "Jersey Blue, pretty near, put the "Columbia's" head to starboard east, *and got headed to middle of Governor's Island at collision;* "J. B." *headed S. E. at collision* (58); no difficulty *in stopping* "C;" *could stop and drift way clear;* Captain in command.

This witness shows they did not stop.

Hutchinson for "Columbia."—Ice 150 to 180 yards off; first saw "J. B." 200 yards off.

Look at his diagrams in the case. The "Columbia" was swinging to the left all the time. Before any order to stop, this witness expected collision and went into engine-room to get order, and got there before it came. Engine hooked on before he saw the "J. B."

Chadsey for "Jersey Blue."—Bound from Jersey City to East River; shows us off Pier 1 when the "Columbia"

started; the "Columbia" kept swinging down; we whistled when we apprehended difficulty; we could not go under the "Columbia's" stern; if she had kept proper course would have avoided us; collision inside; in pier blew a second whistle; we backed after first whistle; "Columbia" came at full speed; her wheel worked over us; proper course under our stern; our best speed six knots; "Columbia" headed to inside of Governor's Island; that course would take her into East River; no under to our stern.

Seaman, for the "Jersey Blue," shows that our side from 15 feet of stem, 60 feet aft, was torn up by wheel.

Bramhall, same; Clicknor, same; Pritchard, same.

Green, our stem not hurt.

Collision off Castle Garden, well in. Our engine backed. (153) heard our whistle. "Columbia" side over us. "Columbia" should have gone outside of us.

Ashford confirms Chedsay as to whistling, stopping, etc.

Barr, for the "Columbia."—"Jersey Blue" headed from Jersey City to East River.

"Jersey Blue" stopped; collision between Pier 1 and Castle Garden.

Started head out. When he first saw "Jersey Blue" headed to Jersey City or Gibbet Island. Shows plenty of clear space; *his attention (an officer of the "Columbia") called by pilot's hail.*

Campbell for the "Columbia."—She came from Jersey City; he first saw "Jersey Blue" 600 yards off, and the "Columbia" then swinging off; *as she swung we came into her view.* Did not hear the pilot of the "Columbia" hail; "Jersey Blue" headed to East River, started with starboard helm and kept it until collision; saw "Jersey Blue" coming and called no one's attention to her; thought when 5 to 600 yards, 1800 *feet, apart there would be collision,* yet

called no attention, and nothing done by "Columbia" to prevent it; "Jersey Blue" headway stopped a little.

Edward B. Taylor, for "Jersey Blue," confirms Chadsey for us.

Hammond, for "Jersey Blue," shows that they walked right over us, that they did not take their proper course.

C. Donohue
for Appellee

UNITED STATES CIRCUIT COURT.

SOUTHERN DISTRICT.

Appeal in Admiralty—Collision.

JAMES H. BUNTING

vs.

The STEAMER "COLUMBIA."

NELSON, C. J.—The collision occurred in this case between the steamer "Columbia" and the propeller "Jersey Blue" on the Hudson River, off the Battery, at Castle Garden, between 3 and 4 o'clock in the afternoon of the 7th January, 1860. The propeller had left the coal dock at Jersey City, and was on her way across to enter the mouth of the East River, into which she was going. The "Columbia" had left her berth at Pier No. 4, on the New York side, on her usual trip to Charleston, S. C. The tide was strong ebb at the time, and a good deal of broken ice in the river, extending from the docks, New York side, for some six hundred feet. The "Columbia," after coming out of her berth at Pier No. 4, and as soon as she had cleared the end of the pier and her head struck the tide, swung round with it, this movement being aided also by starboarding her helm, and then descending the river along the east shore till she reached a point about opposite Castle Garden, encountered the propeller, the wheel of the "Columbia" striking her larboard side, doing very considerable damage. On the part of the "Columbia" it is insisted that the collision was occasioned by the fault of

the propeller in attempting to cross her bows on her way into the East River, and such would seem to have been the opinion of the Court below, as a decree was rendered for the "Columbia," dismissing the libel. The question depends very much upon the position of the propeller at the time the "Columbia" came out of her berth at pier No. 4, and straightened down the river. It is claimed on her part that at this time the propeller was higher up the river, and had advanced on her way only about one-third across toward the East River, and that in this relative position of the two vessels it was the duty of the propeller to have crossed her stern, and not her bow, which movement might have been made with safety. On the the part of the propeller it is insisted that in her diagonal course from the Jersey shore to the East River she had reached a point below the "Columbia" at the time she came out of her berth, and was two-thirds of the way across, and opposite Castle Garden; that the "Columbia" was in fault in the attempt to pass between her (the "Jersey Blue") and the east shore, when there was a clear and unobstructed channel west of her, and in a direct course to the sea. In the support of the position of the propeller, there is Chadsey, the captain; Green, the engineer; Ashford, the pilot; Taylor, a deck hand; and Hammond, a witness, standing on pier No. 4 at the time when the "Columbia" left that Pier.

And this view is rather strengthened than weakened by the testimony of the pilot of the "Columbia;" he says: "When I first saw the "Jersey Blue" she bore to the right of us, our starboard side toward her port side. I am under the impression she was above us at the time; I cannot swear she was above; the boats were angling together." We think it clear, on the weight of the proofs, that the propeller was below the "Columbia" in the river, and near the east shore, when the latter came out of her dock and began swinging round to take her course down the river, and that instead of starboarding her

helm, and thus bringing her on a course to cross the bows of the propeller, she should have ported and passed under her stern. The river was open to her to take this course, and it would have been the most direct one on her way out to sea on her voyage to Charleston.

Decree reversed, and decree for libellant.

For libellant—BEEBE, DONOHUE & COOKE.
For claimant—BENEDICT & BENEDICT.